

Extra Ordinary Part - VI / 1997

Extra No.	Date	Department
Extra No.1	04-01-1997	Legislative & Parliamentary Affairs Department
Extra No.2	04-01-1997	Legislative & Parliamentary Affairs Department
Extra No.3	28-01-1997	Legislative & Parliamentary Affairs Department
Extra No.4	28-01-1997	Legislative & Parliamentary Affairs Department
Extra No.5	28-01-1997	Legislative & Parliamentary Affairs Department
Extra No.6	06-08-1997	Legislative & Parliamentary Affairs Department
Extra No.7	08-08-1997	Legislative & Parliamentary Affairs Department
Extra No.8	08-08-1997	Legislative & Parliamentary Affairs Department
Extra No.9	01-09-1997	Legislative & Parliamentary Affairs Department
Extra No.10	01-09-1997	Legislative & Parliamentary Affairs Department
Extra No.11	01-09-1997	Legislative & Parliamentary Affairs Department
Extra No.12	01-09-1997	Legislative & Parliamentary Affairs Department
Extra No.13	01-09-1997	Legislative & Parliamentary Affairs Department
Extra No.14	11-09-1997	Legislative & Parliamentary Affairs Department
Extra No.15	11-09-1997	Legislative & Parliamentary Affairs Department
Extra No.16	11-09-1997	Legislative & Parliamentary Affairs Department
Extra No.17	11-09-1997	Legislative & Parliamentary Affairs Department
Extra No.18	06-10-1997	Legislative & Parliamentary Affairs Department
Extra No.19	06-10-1997	Legislative & Parliamentary Affairs Department
Extra No.20	06-10-1997	Legislative & Parliamentary Affairs Department
Extra No.21	14-10-1997	Legislative & Parliamentary Affairs Department
Extra No.22	04-12-1997	Legislative & Parliamentary Affairs Department
Extra No.23	09-12-1997	Legislative & Parliamentary Affairs Department
Extra No.24	09-12-1997	Legislative & Parliamentary Affairs Department
Extra No.25	09-12-1997	Legislative & Parliamentary Affairs Department

Extra No.	Date	Department
Extra No.26	11-12-1997	Legislative & Parliamentary Affairs Department
Extra No.27	11-12-1997	Legislative & Parliamentary Affairs Department
Extra No.28	11-12-1997	Legislative & Parliamentary Affairs Department
Extra No.29	12-12-1997	Legislative & Parliamentary Affairs Department



The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

Legislative and Parliamentary Affairs Department,
Sachivalaya, Gandhinagar, 2nd January, 1997.

No. RP/156/96/Act. 5/ E.: The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS,
(Legislative Department)
New Delhi, the 27th March, 1996 / Chaitra 7, 1918 (Saka).

The following Act of Parliament received the assent of the President on the 27th March, 1996 and is hereby published for general information :

THE FINANCE ACT, 1996

(Act No. 5 of 1996)

(27th March, 1996)

AN ACT

to continue the existing rates of income-tax for the financial year 1996-97.

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Finance Act, 1996.

Short title and
commencement.

(2) It shall come into force on the 1st day of April, 1996.

22 of 1995.

2. The provisions of section 2 of, and the First Schedule to, the Finance Act, 1995, shall apply in relation to income-tax for the assessment year or, as the case may be, the financial year commencing on the 1st day of April, 1996, as they apply in relation to income-tax for the assessment year or, as the case may be, the financial year commencing on the 1st day of April, 1995, with the following modifications, namely:—

income-tax.

(a) in section 2,—

(i) for the figures “1995”, wherever they occur, the figures “1996” shall be substituted;

(ii) in sub-section (2), for the words “thirty-five thousand rupees”, wherever

they occur, the words "forty thousand rupees" shall be substituted;

(iii) in the first proviso to sub-section (3), for the word and figures "section 112", the words and figures "sections 112 and 113 of the Income-tax Act" shall be substituted;

(b) in the First Schedule,—

(i) for Part I, the following Part shall be substituted, namely:—

"PART I

INCOME-TAX

Paragraph A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. Nil;
40,000 | |
| (2) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000 | 20 per cent. of the amount by which the total income exceeds Rs. 40,000; |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,20,000 | Rs. 4,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 60,000; |
| (4) where the total income exceeds Rs. 1,20,000 | Rs. 22,000 plus 40 per cent. of the amount by which the total income exceeds Rs. 1,20,000. |

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1996 exceeds Rs. 40,000,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. Nil;
18,000 | |
| (2) where the total income exceeds Rs. 18,000 but does not exceed Rs. 1,00,000 | 30 per cent. of the amount by which the total income exceeds Rs. 18,000; |
| (3) where the total income exceeds Rs. 1,00,000 | Rs. 24,600 plus 40 per cent. of the amount by which the total income exceeds Rs. 1,00,000. |

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | 3,000 plus 35 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 40 per cent.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company 40 per cent. of the total income;

II. In the case of a company other than a domestic company,—

(i) on so much of the total income as consists of—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent.;

(ii) on the balance, if any, of the total income 55 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the provisions of this Paragraph or sections 112 and 113 of the Income-tax Act shall, in the case of every domestic company having a total income exceeding seventy-five thousand rupees, be increased by a surcharge calculated at the rate of fifteen per cent. of such income-tax.;

(ii) in Part III, in Sub-Paragraph II of Paragraph A, for the figures "1996", the figures "1997" shall be substituted;

(iii) in Part IV, in Rule 8,—

(A) for sub-rules (1) and (2), the following sub-rules shall be substituted, namely:—

"(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1996, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of

April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1988, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1989, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1990, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or the 1st day of April, 1995,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1996.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or

the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996, is a loss, then, for the purposes of sub-section (8) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1989, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1990, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995 or the 1st day of April, 1996,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1997.

(B) for sub-rule (4), the following sub-rule shall be substituted, namely:—

“(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1988 (26 of 1988), or of the First Schedule to the Finance Act, 1989 (13 of 1989), or of the First Schedule

to the Finance Act, 1990, (12 of 1990), or of the First Schedule to the Finance (No. 2) Act, 1991 (49 of 1991), or of the First Schedule to the Finance Act, 1992 (18 of 1992), or of the First Schedule to the Finance Act, 1993 (38 of 1993), or of the First Schedule to the Finance Act, 1994 (32 of 1994), or of the First Schedule to the Finance Act, 1995 (22 of 1995) shall be set off under sub-rule (1) or, as the case may be, sub-rule (2)."

SHRI K. L. MOHANPURIA,
Secretary to the Govt. of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHEVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 2nd January, 1997.

No. RP/33/96/Act-31/95/ /E : The following Act of Parliament is republished for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(LEGISLATIVE DEPARTMENT)
New Delhi, the 23rd August, 1995 / Bhadrapad 1, 1917 (Saka)

The following Act of parliament received the assent of the President on the 22nd August, 1995 and is hereby published for general information

THE UNION DUTIES OF EXCISE (DISTRIBUTION) AMENDMENT ACT, 1995

(Act No. 31 of 1995)

An Act

(22nd August, 1995)

furthor to amend the Union Duties of Excise (Distribution) Act, 1979.

En it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Union Duties of Excise (Distribution) Amendment Act, 1995.

Short
title
and
com-
mence-
ment.

(2) It shall be deemed to have come into force on the 1st day of April, 1995.

24 of 1979.

2. In the Union Duties of Excise (Distribution) Act, 1979 (hereinafter referred to as the principal Act), in the long title, for the words, figures and letters "second report dated the 18th day of December, 1989", the words, figures and letters "report dated the 25th day of November, 1994" shall be substituted.

Amend-
ment of
long
title.

3. In section 2 of the principal Act, for the words "forty-five per cent", the words "forty-seven and a half per cent", shall be substituted.

Amend-
ment of
section 2.

Substitution of new section for section 3.

4. For section 3 of the principal Act, the following section shall be substituted, namely:—

Payment to States of sums equivalent to a part of the net proceeds of Union duties of excise and distribution of the sums among them.

“3. During the financial year commencing on the 1st day of April, 1995, and each of the four succeeding financial years, there shall be paid, out of the Consolidated Fund of India, to the States, sums equivalent to the distributable Union duties of excise levied and collected in that year and,—

(a) sixteen-nineteenth of the sums so payable during each such financial year shall be distributed to each of the States specified in column (1) of Table I below in such percentage as is set out against it in column (2) thereof; and

(b) three-nineteenth of the sums so payable during each such financial year shall be distributed to each of the States specified in column (1) of Table II below in such percentage as is set out against it in column (2) thereof with respect to that financial year:—

TABLE I

State	Percentage
(1)	(2)
Andhra Pradesh	8.465
Arunachal Pradesh	0.170
Assam	2.784
Bihar	12.861
Goa	0.180
Gujarat	4.046
Haryana	1.238
Himachal Pradesh	0.704
Jammu and Kashmir	1.097
Karnataka	5.339
Kerala	3.875
Madhya Pradesh	8.290
Maharashtra	6.126
Manipur	0.282
Meghalaya	0.283
Mizoram	0.149
Nagaland	0.181
Orissa	4.495

(1)	(2)
Punjab	1.461
Rajasthan	5.551
Sikkim	0.126
Tamil Nadu	6.637
Tripura	0.378
Uttar Pradesh	17.811
West Bengal	7.471

TABLE II

State	Financial year and percentage				
(1)	(2)				
	1995-96	1996-97	1997-98	1998-99	1999-2000
Andhra Pradesh	12.069	7.988	0.000	0.000	0.000
Arunachal Pradesh	3.410	4.300	5.871	6.224	6.667
Assam	8.543	9.836	11.849	10.748	9.290
Bihar	6.434	2.965	0.000	0.000	0.000
Goa	0.973	1.058	1.161	0.917	0.604
Himachal Pradesh	8.816	10.744	14.057	14.230	14.338
Jammu and Kashmir	13.366	16.491	21.985	22.741	23.700
Manipur	3.930	4.891	6.602	6.917	7.348
Meghalaya	3.590	4.403	5.815	5.994	6.130
Mizoram	3.676	4.628	6.278	6.784	7.074
Nagaland	5.818	7.417	10.247	11.072	12.025
Orissa	4.815	5.248	4.934	2.773	0.680
Rajasthan	0.835	0.000	0.000	0.000	0.000
Sikkim	1.199	1.473	1.938	1.982	2.055
Tripura	5.465	6.807	9.263	9.618	10.089
Uttar Pradesh	17.061	11.751	0.000	0.000	0.000

5. (1) The Union Duties of Excise (Distribution) Amendment Ordinance 1995 is hereby repealed.

Ord.
9 of 1995.

Repeal
and
saving.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

Sd/-

Shri K. L. MOHANPURIA,
Secretary to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Smt. K. R. TRIVEDI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, 24th January, 1997.

No. RP/28/96/Const. 78/ /E : The following Act of Parliament
is republished for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(LEGISLATIVE DEPARTMENT)
New Delhi, the 31st August, 1995 / Bhadrapad 9, 1916 (Saka).

The following Act of parliament received the assent of the President
on the 30th August, 1995 and is hereby published for general
information :

THE CONSTITUTION (SEVENTY-EIGHTH AMENDMENT) ACT, 1995.

(30th August, 1995)

AN ACT

further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-sixth Year of the Republic
of India as follows:—

1. This Act may be called the Constitution (Seventy-eighth Amend-
ment) Act, 1995.

2. In the Ninth Schedule to the Constitution, after entry 257A and
before the Explanation, the following entries shall be inserted, namely:—

258. The Bihar Privileged Persons Homestead Tenancy Act,
1947 (Bihar Act 4 of 1948).

259. The Bihar Consolidation of Holdings and Prevention of
Fragmentation Act, 1956 (Bihar Act 22 of 1956).

260. The Bihar Consolidation of Holdings and Prevention of
Fragmentation (Amendment) Act, 1970 (Bihar Act 7 of 1970).

261. The Bihar Privileged Persons Homestead Tenancy (Amend-
ment) Act, 1970 (Bihar Act 9 of 1970).

Short
title

Amend-
ment of
the Ninth
Schedule

262. The Bihar Consolidation of Holdings and Prevention of Fragmentation (Amendment) Act, 1973 (Bihar Act 27 of 1975).

263. The Bihar Consolidation of Holdings and Prevention of Fragmentation (Amendment) Act, 1981 (Bihar Act 35 of 1982).

264. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1987 (Bihar Act 21 of 1987).

265. The Bihar Privileged Persons Homestead Tenancy (Amendment) Act, 1989 (Bihar Act 11 of 1989).

266. The Bihar Land Reforms (Amendment) Act, 1989 (Bihar Act 11 of 1990).

267. The Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) (Amendment) Act, 1984 (Karnataka Act 3 of 1984).

268. The Kerala Land Reforms (Amendment) Act, 1989 (Kerala Act 16 of 1989).

269. The Kerala Land Reforms (Second Amendment) Act, 1989 (Kerala Act 2 of 1990).

270. The Orissa Land Reforms (Amendment) Act, 1989 (Orissa Act 9 of 1990).

271. The Rajasthan Tenancy (Amendment) Act, 1979 (Rajasthan Act 16 of 1979).

272. The Rajasthan Colonisation (Amendment) Act, 1987 (Rajasthan Act 2 of 1987).

273. The Rajasthan Colonisation (Amendment) Act, 1989 (Rajasthan Act 12 of 1989).

274. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1983 (Tamil Nadu Act 3 of 1984).

275. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1986 (Tamil Nadu Act 57 of 1986).

276. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1987 (Tamil Nadu Act 4 of 1988).

277. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) (Amendment) Act, 1989 (Tamil Nadu Act 30 of 1989).

278. The West Bengal Land Reforms (Amendment) Act, 1981 (West Bengal Act 50 of 1981).

279. The West Bengal Land Reforms (Amendment) Act, 1986 (West Bengal Act 5 of 1986).

280. The West Bengal Land Reforms (Second Amendment) Act, 1986 (West Bengal Act 19 of 1986).

281. The West Bengal Land Reforms (Third Amendment) Act, 1986 (West Bengal Act 35 of 1986).

282. The West Bengal Land Reforms (Amendment) Act, 1989 (West Bengal Act 23 of 1989).

283. The West Bengal Land Reforms (Amendment) Act, 1990 (West Bengal Act 24 of 1990).

284. The West Bengal Land Reforms Tribunal Act, 1991 (West Bengal Act 12 of 1991).

SHRI K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat, -

KUM. H. K. JHAVERI,
Secretary to Government.



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GOVERNMENT OF GUJARAT
 LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 24th January, 1997.

No. RP/31/96/Act-28/95/ /E : The following Act of Parliament
 is republished for general information :

GOVERNMENT OF INDIA
 MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
 (LEGISLATIVE DEPARTMENT)
 New Delhi, the 9th August, 1995 / Shravan 18, 1916 (Saka).

The following Act of parliament received the assent of the President on
 the 9th August, 1995 and is hereby published for general information :

**THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL
 INSTITUTIONS (AMENDMENT) ACT, 1995**

(Act No. 28 of 1995)

(9th August, 1995)

AN ACT

*to amend the Recovery of Debts Due to Banks and Financial Institutions
 Act, 1993.*

BE it enacted by Parliament in the Forty-sixth Year of the Republic
 of India as follows:—

1. This Act may be called the Recovery of Debts Due to Banks and Financial Institutions (Amendment) Act, 1995. Short title.

51 of 1993.

2. In section 6 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as the principal Act) for the words "sixty years", the words "sixty-two years" shall be substituted. Amend-
ment of
section 6.

Amend-
ment of
section 11. 3. in section 11 of the principal Act, for the words "sixty-two years", the words "sixty-five years" shall be substituted.

Sd/-

Shri K. L. MOHANPURIA,
Secretary to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT,

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,

Sachivalaya, Gandhinagar, 24th January, 1997.

No. RP/42/96/Act 40/95. / E: The following Act of Parliament is
 re-published for general information.

GOVERNMENT OF INDIA

Ministry of Law, Justice and Company Affairs,

(Legislative Department)

New Delhi, the 8th September, 1995/Bhadrapad 18, 1916 (Saka)

The following Act of Parliament received the assent of the President
 on the 8th September, 1995 and is hereby published for general
 information.

**THE SICK TEXTILE UNDERTAKINGS (NATIONALISATION)
 AMENDMENT ACT, 1995**

(Act No. 40 of 1995)

(8th September, 1995)

An Act

to amend the Sick Textile Undertakings (Nationalisation) Act, 1974 and
 the Swadeshi Cotton Mills Company Limited (Acquisition) and
 Transfer of Undertakings Act, 1986.

Be it enacted by Parliament in the Forty-fifth Year of the Republic
 of India as follows:—

1. (1) This Act may be called the Sick Textile Undertakings (Na-
 tionalisation) Amendment Act, 1995.

(2) It shall be deemed to have come into force on the 27th day of
 June, 1995.

2. In the Sick Textile Undertakings (Nationalisation) Act, 1974, after
 section 11, the following section shall be inserted, namely:—

"11A. If the National Textile Corporation considers it necessary
 or expedient for the better management, modernisation, restructuring
 or revival of a sick textile undertaking so to do, it may, with the
 previous sanction of the Central Government, transfer, mortgage, sell
 or otherwise dispose of any land, plant, machinery or any other assets
 of any of the sick textile undertakings:

Provided that the proceeds of no such transfer, mortgage, sale
 or disposal shall be utilised for any purpose other than the purpose
 for which the sanction of the Central Government has been obtained."

VI-Ex. 5—1

Short title
 and com-
 mencement.

Amend-
 ment of
 Act 57
 of 1974.
 Special
 provision
 for
 disposal
 of assets of
 the sick
 textile
 undertak-
 ings in
 certain
 circum-
 stances.

Amend-
ment of
Act 30
of 1986

3. In the Swadeshi Cotton Mills Company Limited (Acquisition and Transfer of Undertakings) Act, 1986, after section 10, the following section shall be inserted, namely:—

Special
provision
for
disposal of
assets of
the textile
undertak-
ings in
certain cir-
cumstances

“10A. If the National Textile Corporation considers it necessary or expedient for the better management, modernisation, restructuring or revival of a textile undertakings so to do, it may, with the previous sanction of the Central Government, transfer, mortgage, sell or otherwise dispose of any land, plant, machinery or any other assets of any of the textile undertakings:

Provided that the proceeds of no such transfer, mortgage, sale or disposal shall be utilised for any purpose other than the purpose for which the sanction of the Central Government has been obtained.”

Repeal
and
saving.

4. (1) The Sick Textile Undertakings (Nationalisation) Amendment Ordinance, 1995, is hereby repealed. Ord. 7 of 1995.

(2) Notwithstanding such repeal, anything done or any action taken under the Sick Textile Undertakings (Nationalisation) Act, 1974 and the Swadeshi Cotton Mills Company Limited (Acquisition and Transfer of Undertakings) Act, 1986, as amended by the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act. 57 of 1974 50 of 1986

SHRI K. L. MOHANPURIA
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette
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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT,
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,
 Sachivalay, Gandhinagar. 6 August, 1997.

No : RP/45/97/Act 23/96/31 /E : The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA,
MINISTRY OF LAW AND JUSTICE
 (Legislative Department)
 New Delhi, the 14th August, 1996/Shravan 23, 1918 (Saka)

The Following Act of Parliament received the assent of the President on the 13th August, 1996 and is hereby published for general information :

THE COAL MINES PROVIDENT FUND AND MISCELLANEOUS PROVISIONS (AMENDMENT) ACT, 1996

AN ACT

(Act No. 23 of 1996)

(13th August, 1996)

further to amend the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948.

Enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Coal Mines Provident Fund and Miscellaneous Provisions (Amendment) Act, 1996.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the long title to the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (hereinafter referred to as the principal Act), for the words "Family Pension Scheme", the words "Pension Scheme" shall be substituted.

Amendment of long title of Act 46 of 1948.

3. In section 2 of the principal Act:—

Amendment of section 2.

(a) clause (ee) shall be omitted;

(b) after clause (g), the following clauses shall be inserted, namely:—

(h) "Pension Fund" means the Pension Fund established under sub-section (2) of section 3E;

(i) "Pension Scheme" means the Coal Mines Pension Scheme framed under sub-section (1) of section 3E;

(j) "superannuation", in relation to an employee who is a member of the Pension Scheme, means the attainment, by the said employee, of such age as is fixed in the contract or conditions of service as the age on the attainment of which such employee shall vacate the employment.

Substitution of references to certain expressions by certain other expressions.

4. In the principal Act, for the expressions "Family Pension", "Family Pension Fund", "Family Pension Scheme" and "Coal Mines Family Pension Scheme", wherever they occur, the expressions "Pension", "Pension Fund", "Pension Scheme" and "Coal Mines Pension Scheme" shall respectively be substituted.

Substitution of new section for section 3E.

5. For section 3E of the principal Act, the following section shall be substituted, namely:—

Coal Mines Pension Scheme.

"3E. (1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Coal Mines Pension Scheme for the purpose of providing for—

(a) superannuation pension, retiring pension or permanent total disablement pension to the persons employed in any coal mine or class of coal mines to which this Act applies; and

(b) widow or widower pension, children pension or orphan pension and life assurance benefits, payable to the beneficiaries of such employees.

(2) Notwithstanding anything contained in section 3, there shall be established, as soon as may be after framing of the Pension Scheme, a Pension Fund into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme,—

(a) such sums, not exceeding one-fourth, of the amount payable to the Fund under sub-section (1) of section 10D as the employer's contribution as well as the employee's contribution, as may be specified in the Pension Scheme;

(b) such sums as the Central Government may, after due appropriation made by Parliament by law in this behalf, specify;

(c) the net assets of the Family Pension Fund as existed immediately before the establishment of the Pension Fund; and

(d) any other contribution which may be made to the Pension Fund with the previous approval of the Central Government.

(3) On the establishment of the Pension Fund, the Family Pension Scheme (hereinafter referred to as the ceased scheme) shall cease to operate and all assets of the ceased scheme shall vest in, and shall stand transferred to, and all liabilities under the ceased scheme shall be enforceable against, the Pension Fund and the beneficiaries under the ceased scheme shall be entitled to draw the benefits, not less than the benefits, they were entitled to under the ceased scheme, from the Pension Fund.

(4) The Pension Fund shall vest in and be administered by the Board in such manner as may be specified in the Pension Scheme.

(5) A scheme framed under the provisions of sub-section (1) may provide for all or any of the matters specified in the Second Schedule."

Substitution of new section for section 4.

Fund to be recognised under Act 43 of 1961.

6. For section 4 of the principal Act, the following section shall be substituted, namely:—

"4. For the purposes of the Income-tax Act, 1961, the Fund shall be deemed to be a recognised Provident Fund within the meaning of Part A of the Fourth Schedule to that Act."

7. In section 10 of the principal Act, in sub-section (2B),—

Amendment of section 10.

5 of 1898.
2 of 1974.

(a) for the words and figures "the Code of Criminal Procedure, 1898", the words and figures "the Code of Criminal Procedure, 1973" shall be substituted;

(b) for the word and figures "section 98", the word and figures "section 94" shall be substituted.

7 of 1913.
1 of 1956.

8. In section 11 of the principal Act, for the words and figures "section 230 of the Indian Companies Act, 1913", the words and figures "section 530 of the Companies Act, 1956" shall be substituted.

Amendment of section 11.

9. For the Second Schedule to the principal Act, the following Schedule shall be substituted, namely:—

Substitution of new Schedule for the Second Schedule.

“THE SECOND SCHEDULE

[See section 3E(5)]

MATTERS TO BE PROVIDED FOR IN THE COAL MINES PENSION SCHEME

1. The employees or class of employees to whom the Coal Mines Pension Scheme shall apply and the time within which option to join that Scheme shall be exercised by those employees to whom the said Scheme does not apply.

2. The time within which the employees who are not members of the Family Pension Scheme under section 3E as it stood before the commencement of the Coal Mines Provident Fund and Miscellaneous Provisions (Amendment) Act, 1996 (hereinafter, in this Schedule, referred to as the amending Act) shall opt for the Pension Scheme.

3. The portion of employer's contribution and employees' contribution to the Fund which shall be credited to the Pension Fund and the manner in which it is credited.

4. The Central Government's contribution and other contributions to the Fund which shall be credited to the Pension Fund and the manner in which it is credited.

5. The minimum qualifying service for being eligible for pension and the manner in which the employees may be granted the benefits of their past service under section 3E as it stood before the commencement of the amending Act.

6. The regulation of the period of service for which no contribution is received.

7. The manner in which employees' interest will be protected against default in payment of contribution by the employer.

8. The manner in which the accounts of the Pension Fund shall be kept and investment of moneys belonging to Pension Fund to be made subject to such pattern of investment as may be determined by the Central Government.

9. The form in which an employee shall furnish particulars about himself and the members of his family whenever required.

10. The forms, registers and records to be maintained in respect of employees required for the administration of the Pension Scheme.

11. The scale of pension and pensionary benefits and the conditions relating to grant of such benefits to the employees, the amount of life assurance payable under the Pension Scheme and the manner of such payment.

12. The mode of disbursement of pension and arrangements to be entered into with such disbursing agencies as may be specified for the purpose.

13. The manner in which the expenses incurred in connection with the administration of the Pension Scheme may be paid by the Central Government to the Board.

14. Nomination of persons for receiving pension and assurance amounts in the case of death of an employee.

15. Any other matter which is to be provided for in the Pension Scheme or which may be necessary or proper for the purpose of implementation of the Pension Scheme."

Ord.
22 of 1996.

10. (1) The Coal Mines Provident Fund and Miscellaneous Provisions (Amendment) Third Ordinance, 1996 is hereby repealed.

Repeal and
saving.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

Sd/-

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, 8th August, 1997.

No. RP/44/97/Act 35/96/ /E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19th December, 1996/Agrahayan . 28, 1918 (Saka)

The following Act of Parliament received the Assent of the President on the 19th December, 1996 and is hereby published for general information :

THE INCOME TAX (AMENDMENT) ACT, 1996 AN ACT

(Act No. 35 of 1996)

(19th December, 1996)

further to amend the Income-tax Act, 1961.

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Income-tax (Amendment) Act, 1996.
- (2) It shall be deemed to have come into force on the 14th day of November, 1996.
2. In section 80G of the Income-tax Act, 1961 (hereinafter referred to as the principal Act),—

(a) in sub-section (1), in clause (i), after the word, brackets, figures and letters "sub-clause (iii hc)", the words, brackets, figures and letters "or sub-clause (iii hd)" shall be inserted;

(b) in sub-section (2), in clause (a), after sub-clause (iii hc), the following sub-clause shall be inserted, namely:—

"(iii hd) the Andhra Pradesh Chief Minister's Cyclone Relief Fund 1996; or".

Short title and commencement.

Amendment of section 80G of Act 43 of 1961:

Repeal and
saving.

3. (1) The Income-tax (Amendment) Ordinance, 1996 is hereby repealed.

Ord. 31 of
1996.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

K. L. MOHANPURIA,
Secretary to the Govt. of India,

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



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Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 8th August, 1997.

No. RP/29/97/Act 3/97/33/E.—The following Act of Parliament is, re-published
for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)
New Delhi, the 8th January, 1997/Pausa 18, 1918 (Saka)

The following Act of Parliament received the assent of the President on the 8th
January, 1997 and is hereby published for general information :

THE MAHATMA GANDHI ANTARRASHTRIYA HINDI VISHWAVIDYALAYA ACT, 1996.

(Act No. 3 of 1997)

AN ACT

(8th January, 1997)

*to establish and incorporate a teaching University for the promotion and development
of Hindi language and literature, through teaching and research, with a view to
enabling Hindi to achieve greater functional efficiency and recognition as a major
international language and to provide for matters connected therewith or incidental
thereto.*

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as
follows:—

1. (1) This Act, may be called the Mahatma Gandhi Antarrashtriya Hindi
Vishwaavidyalaya Act, 1996.

Short title and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notifica-
tion in the Official Gazette, appoint.

2. In this Act, and the Statutes made hereunder, unless the context otherwise re-
quires,—

Definitions.

(a) "Academic Council" means the Academic Council of the University;

(b) "academic staff" means such categories of staff as are designated as aca-
demic staff by the Ordinances;

- (c) "Board of Studies" means the Board of Studies of the University;
- (d) "Chancellor", "Vice-Chancellor" and "Pro-Vice-Chancellor" mean, respectively, the Chancellor, Vice-Chancellor and Pro-Vice-Chancellor of the University;
- (e) "Court" means the Court of the University;
- (f) "Department" means a Department of Studies and includes a Centre of Studies;
- (g) "distance education system" means the system of imparting education through any means of communication, such as broadcasting, telecasting, correspondence courses, seminars, contact programmes or the combination of any two or more such means;
- (h) "employee" means any person appointed by the University, and includes teachers and other staff of the University;
- (i) "Executive Council" means the Executive Council of the University;
- (j) "Finance Committee" means the Finance Committee of the University;
- (k) "Hall" means a unit of residence or of corporate life for the students of the University, or of an Institution maintained by the University;
- (l) "Institution" means an academic institution, not being a College, maintained by the University;
- (m) "recognised Institution" means an institution of higher learning recognised by the University;
- (n) "Regulations" means the Regulations made by any authority of the University under this Act for the time being in force;
- (o) "School" means a School of Studies of the University;
- (p) "Statutes" and "Ordinances" mean, respectively, the Statutes and Ordinances of the University for the time being in force;
- (q) "teachers of the University" means Professors, Readers, Lecturers and such other persons as may be appointed for imparting instruction or conducting research in the University or in any Institution maintained by the University and are designated as teachers by the Ordinances;
- (r) "University" means the Mahatma Gandhi Antarrashtriya Hindi Vishwavidyalaya established and incorporated as a University under this Act.

Establishment
of the
University.

3. (1) There shall be established a University by the name of "Mahatma Gandhi Antarrashtriya Hindi Vishwavidyalaya".

(2) The headquarters of the University shall be at Wardha.

(3) The first Chancellor and the first Vice-Chancellor and the first member of the Court, the Executive Council and the Academic Council and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of "Mahatma Gandhi Antarrashtriya Hindi Vishwavidyalaya".

(4) The University shall have perpetual succession and a common seal and shall sue and be sued by the said name.

Objects of the
University.

4. The objects of the University shall be to promote and develop Hindi language and literature in general and, for that purpose, to provide for instructional and research facilities in the relevant branches of learning; to provide for active pursuit of comparative studies and research in Hindi and other Indian languages; to create facilities for development and dissemination of relevant information in the country and abroad; to offer programmes of

Research, Education and Training in areas like translation, interpretation and linguistics for improving the functional effectiveness of Hindi; to reach out to Hindi scholars and groups interested in Hindi abroad and to associate them in teaching and research and to popularize Hindi through distance education system.

5. The University shall have the following powers, namely:—

Powers of the University.

(i) to provide for instructions in the relevant branches of learning and to make provision for the advancement and dissemination of knowledge for furtherance of its objects;

(ii) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees or other academic distinctions on the basis of examinations, evaluation or any other method of testing on, persons, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(iii) to organise and to undertake extra-mural studies, training and extension services;

(iv) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(v) to provide for facilities through distance education system to such persons as it may determine;

(vi) to institute Professorships, Readerships, Lecturerships and other teaching or academic positions; required by the University and to appoint persons to such Professorships, Readerships, Lecturerships or other teaching or academic positions;

(vii) to recognise, with the prior approval of the Visitor, an institution of higher learning, within or outside India for such purposes as the University may determine and to withdraw such recognition;

(viii) to appoint persons working in any other University or organisation as teacher of the University for a specified period;

(ix) to create administrative, ministerial and other posts and to make appointments thereto;

(x) to co-operate or collaborate or associate with any other University or authority or institution of higher learning in such manner and for such purposes as the University may determine;

(xi) to establish, with the prior approval of the Visitor, such campuses, special centres and specialised laboratories, within or outside India, as are, in the opinion of the University, necessary for the furtherance of its objects;

(xii) to institute and award fellowships, scholarships, studentships, medals and prizes;

(xiii) to establish and maintain Institutions and Halls;

(xiv) to make provision for research and advisory services and for that purpose to enter into such arrangements with other institutions, industrial or other organisations, as the University may deem necessary;

(xv) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators and other academic staff;

(xvi) to make special arrangements in respect of the residence, discipline and teaching of women students as the University may consider desirable;

(xvii) to appoint on contract or otherwise visiting Professors, Emeritus Professors, Consultants, Scholars and such other persons who may contribute to the advancement of the objects of the University;

(xviii) to confer autonomous status on a Department, in accordance with the Statutes;

(xix) to determine standards of admission to the University, which may include examination, evaluation or any other method of testing;

(xx) to demand and receive payment of fees and other charges;

(xxi) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;

(xxii) to lay down conditions of service of all categories of employees, including their code of conduct;

(xxiii) to regulate and enforce discipline among the students and the employees, and to take such disciplinary measures in this regard as may be deemed by the University to be necessary;

(xxiv) to make arrangements for promoting the health and general welfare of the employees;

(xxv) to receive benefactions, donations and gifts and to acquire, hold, manage and dispose of any property, movable or immovable, including trust and endowment properties for the purposes of the University;

(xxvi) to borrow, with the approval of the Central Government, on the security of the property of the University, money for the purposes of the University;

(xxvii) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

Jurisdiction.

6. The jurisdiction of the University shall extend to the whole of India.

University open to all classes, castes and creeds.

7. The University shall be open to persons of either sex and of whatever caste, creed, race or class, and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher of the University or to hold any other office therein or to be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof:

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for the employment or admission of women, physically handicapped or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes and the Scheduled Tribes.

Residence of students.

8. The University shall, primarily, be a residential University.

Provided that the requirements of residence shall be regulated in such manner as may be prescribed by the Ordinances.

The Visitor.

9. (1) The President of India shall be the Visitor of the University.

(2) The Visitor may, from time to time, appoint one or more persons to review the work and progress of the University, including any Institution managed by it, and to submit a report thereon; and upon receipt of that report the Visitor may, after obtaining the views of the Executive Council thereon through the Vice-Chancellor, take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the University shall be bound to comply with such directions.

(3) The Visitor shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, laboratories and equipment and of

an Institution and also of the examinations, teaching and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration or finances of the University or Institutions.

(4) The Visitor shall, in every matter referred to in sub-section (2), give notice of his intention to cause an inspection or inquiry to be made to the University and the University shall have the right to make such representations to the Visitor, as it may consider necessary.

(5) After considering the representations, if any, made by the University, the Visitor may cause to be made such inspection or inquiry as is referred to in sub-section (3).

(6) Where any inspection or inquiry has been caused to be made by the Visitor, the University shall be entitled to appoint a representative, who shall have the right to be present and be heard at such inspection or inquiry.

(7) The Visitor may, if the inspection or inquiry is made in respect of the University or any Institution address the Vice-Chancellor with reference to the result of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon, as the Visitor may be pleased to offer, and on receipt of address made by the Visitor, the Vice-Chancellor shall communicate to the Executive Council, the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.

(8) The Executive Council shall communicate, through the Vice-Chancellor, to the Visitor such action, if any, as it proposes to take or has been taken upon the result of such inspection or inquiry.

(9) Where, the Executive Council does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Executive Council, issue such directions as he may think fit and the Executive Council shall comply with such directions.

(10) Without prejudice to the foregoing provisions of this section, the Visitor may, by order in writing, annul any proceeding of the University which is not in conformity with this Act, the Statutes or the Ordinances:

Provided that before making any such order, he shall call upon the Registrar to show cause why such an order should not be made, and, if any cause is shown within a reasonable time, he shall consider the same.

(11) The Visitor shall have such other powers as may be prescribed by the Statutes.

10. The following shall be the officers of the University:—

Officers of the University.

- (1) the Chancellor;
- (2) the Vice-Chancellor;
- (3) the Pro-Vice-Chancellor;
- (4) the Deans of Schools;
- (5) the Registrar;
- (6) the Finance Officer;
- (7) the Librarian; and

(8) such other officers as may be declared by the Statutes to be officers of the University.

11. (1) The Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes. The Chancellor.

(2) The Chancellor shall, by virtue of his office, be the head of the University.

(3) The Chancellor shall, if present, preside at the convocation of the University held for conferring degrees and the meetings of the Court.

The Vice-Chancellor.

12. (1) The Vice-Chancellor shall be appointed by the Visitor in such manner and on such terms and conditions of service as may be prescribed by the Statutes.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(3) The Vice-Chancellor may, if he is of opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority the action taken by him on such matters :

Provided that if the authority concerned is of opinion that such action ought not to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final :

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to appeal against such action to the Executive Council within three months from the date on which decision on such action is communicated to him and thereupon the Executive Council may confirm, modify or reverse the action taken by the Vice-Chancellor.

(4) The Vice-Chancellor, if he is of the opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act, the Statutes or the Ordinances or that any decision taken is not in the interest of the University, may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Visitor whose decision thereon shall be final.

(5) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances.

The Pro-Vice-Chancellor.

13. The Pro-Vice-Chancellor shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Deans of Schools

14. Every Dean of a School shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Registrar.

15. (1) The Registrar shall be appointed in such manner as may be prescribed by the Statutes.

(2) The Registrar shall have the power to enter into agreement, sign documents and authenticate records on behalf of the University and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Finance Officer

16. The Finance Officer shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Librarian.

17. The Librarian shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

Other officers.

18. The manner of appointment and powers and duties of the other officers of the University shall be prescribed by the Statutes.

Authorities of the University.

19. The following shall be the authorities of the University:—

- (1) the Court;
- (2) The Executive Council;
- (3) The Academic Council;

(4) the Board of Studies;

(5) the Finance Committee; and

(6) such other authorities as may be declared by the Statutes to be the authorities of the University.

20. (1) The constitution of the Court and the term of office of its members shall be prescribed by the Statutes. The Court.

(2) Subject to the provisions of this Act, the Court shall have the following powers and functions, namely:—

(a) to review, from time to time, the broad policies and programmes of the University and to suggest measures for the improvement and development of the University;

(b) to advise the Visitor in respect of any matter which may be referred to it for advice; and

(c) to perform such other functions as may be prescribed by the Statutes.

21. (1) The executive Council shall be the principal executive body of the University. The Executive Council.

(2) The constitution of the Executive Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes.

22. (1) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, exercise general supervision over the academic policies of the University. The Academic Council.

(2) The constitution of the Academic Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes.

23. The constitution, powers and functions of the Board of Studies shall be prescribed by the Statutes. The Board of Studies.

24. The constitution, powers and functions of the Finance Committee shall be prescribed by the Statutes. The Finance Committee.

25. The constitution, powers and functions of other authorities, as may be declared by the Statutes to be the authorities of the University, shall be prescribed by the Statutes. Other authorities of the University.

26. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:— Power to make Statutes.

(a) the constitution, powers and functions of the authorities and other bodies of the University, as may be constituted from time to time;

(b) the appointment and continuance in office of the members of the said authorities and bodies, filling up of vacancies of members and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

(c) the appointment, powers and duties of the officers of the University and their emoluments;

(d) the appointment of teachers, academic staff and other employees of the University, their emoluments and other conditions of service;

(e) the appointment of teachers and academic staff working in any other University or organisation for specific period for undertaking a joint project;

(f) the conditions of service of employees including provision for pension, insurance and provident fund, the manner of termination of service and disciplinary action;

(g) the principles governing the seniority of service of the employees of the University;

(h) the procedure for arbitration in cases of dispute between employees or students and the University;

(i) the procedure for appeal to the Executive Council by any employee or student against the action of any officer or authority of the University;

(j) the conferment of autonomous status on an Institution or a Department;

(k) the establishment and abolition of Schools, Departments, Centres, Halls and Institutions;

(l) the conferment of honorary degrees;

(m) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

(n) the institution of fellowships, scholarships, studentships, medals and prizes;

(o) the delegation of powers vested in the authorities or officers of the University;

(p) the maintenance of discipline among the employees and students;

(q) all other matters which by this Act are to be or may be provided for by the Statutes.

Statutes how to be made.

27. (1) The first Statutes are those set out in the Schedule.

(2) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (1):

Provided that the Executive Council shall not make, amend or repeal any Statutes affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes and any opinion so expressed shall be considered by the Executive Council:

Provided further that the Executive Council shall not consider to make, amend or repeal any Statute relating to the matters provided under clauses (j) and (k) of section 26 except with the prior approval of the Visitor.

(3) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the assent of the Visitor who may assent thereto or withhold assent or remit to the Executive Council for re-consideration.

(4) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

(5) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may make new or additional Statutes or amend or repeal the Statutes referred to in sub-section (1), during the period of three years immediately after the commencement of this Act:

Provided that the Visitor may, on the expiry of the said period of three years, make, within one year from the date of such expiry, such detailed Statutes as he may consider necessary and such detailed Statutes shall be laid before both Houses of Parliament.

(6) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may direct the University to make provisions in the Statutes in respect of any matter specified by him and if the Executive Council is unable to implement such direction within sixty days of

its receipt, the Visitor may, after considering the reasons, if any, communicated by the Executive Council for its inability to comply with such direction, make or amend the Statutes suitably.

28. (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

Power to make Ordinances.

- (a) the admission of students to the University and their enrolment as such;
- (b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;
- (c) the medium of instruction and examination;
- (d) the award of degrees, diplomas, certificates and other academic distinctions, qualifications for the same and the means to be taken relating to the granting and obtaining of the same;
- (e) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;
- (f) the conditions for award of fellowships, scholarships, studentships, medals and prizes;
- (g) the conduct of examinations, including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;
- (h) the conditions of residence of the students of the University;
- (i) the special arrangements, if any, which may be made for the residence, discipline and teaching of women students and prescribing of special courses of studies for them;
- (j) the appointments and emoluments of employees other than those for whom provision has been made in the Statutes;
- (k) the establishment of Centres of Studies, Board of Studies, Special Centres, Specialised Laboratories and other Committees;
- (l) the manner of co-operation and collaboration with other Universities, Institutions and other agencies including learned bodies or associations in India or abroad;
- (m) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;
- (n) such other terms and conditions of service of teachers and other academic staff as are not prescribed by the Statutes;
- (o) the management of Institutions established by the University;
- (p) setting up of a machinery for redressal of grievances of employees; and
- (q) all other matters which, by this Act or the Statutes, are or may be provided for by the Ordinances.

(2) The first Ordinances shall be made by the Vice-Chancellor with the previous approval of the Central Government and the Ordinances so made may be amended, repealed or added to at any time by the Executive Council in the manner prescribed by the Statutes.

29. The authorities of the University may make Regulations, consistent with this Act, the Statutes and the Ordinances for the conduct of their own business and that of the Committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances, in the manner prescribed by the Statutes.

Regulations.

Annual report.

30. (1) The annual report of the University shall be prepared under the direction of the Executive Council which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects, and shall be submitted to the Visitor on or before such date as may be prescribed by the Statutes.

(2) A copy of the annual report, as prepared under sub-section (1) shall also be submitted to the Central Government which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

Annual accounts.

31. (1) The annual accounts and balance-sheet of the University shall be prepared under the directions of the Executive Council and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such persons as he may authorise in this behalf.

(2) A copy of the annual accounts together with the audit report thereon shall be submitted to the Visitor along with the observations of the Executive Council.

(3) Any observations made by the Visitor on the annual accounts shall be brought to the notice of the Executive Council and the views of the Executive Council, if any, on such observation shall be submitted to the Visitor.

(4) A copy of the annual accounts together with the audit report as submitted to the Visitor, shall also be submitted to the Central Government, who shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

(5) The audited annual accounts after having been laid before both Houses of Parliament shall be published in the Gazette of India.

Conditions of service of employees.

32. (1) Every employee of the University shall be appointed under a written contract, which shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

(2) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the employee and an umpire appointed by the Visitor.

(3) The decision of the Tribunal shall be final and no suit shall lie in any civil court in respect of the matters decided by the Tribunal.

(4) Every request made by the employee under sub-section (2) shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration Act, 1940.

10 of 1940.

(5) The procedure for regulating the work of the Tribunal shall be prescribed by the Statutes.

Procedure of appeal and arbitration in disciplinary cases against students.

33. (1) Any student or candidate for an examination whose name has been removed from the rolls of the University by the orders or resolution of the Vice-Chancellor, Discipline Committee or Examination Committee, as the case may be, and who has been debarred from appearing at the examination of the University for more than one year, may, within ten days of the date of receipt of such orders or copy of such resolution by him, appeal to the Executive Council and the Executive Council may confirm, modify or reverse the decision of the Vice-Chancellor or the Committee, as the case may be.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (2), (3), (4) and (5) of section 32 shall, as far as may be, apply to a reference made under this sub-section.

Right to appeal.

34. Every employee or student of the University or Institution shall, notwithstanding anything contained in this Act, have a right to appeal within such time as may be

prescribed by the Statutes, to the Executive Council against, decision of any officer or authority of the University or of Institution, as the case may and thereupon, the Executive Council may confirm, modify or reverse the decision appealed against.

35. (1) The University shall constitute for the benefit of its employees such provident fund or pension fund or provide such insurance schemes as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

Provident and pension funds.

19 of 1925.

(2) Where such provident fund or pension fund has been so constituted, the Central Government may declare that the provision of the Provident Funds Act, 1925, shall apply to such fund, as if it were a Government provident fund.

36. (1) If any question arises as to whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Visitor whose decision thereon shall be final.

Disputes as to constitution of University authorities and bodies.

37. (1) Where any authority of the University is given power by this Act or the Statutes to appoint Committees, such Committees shall, save as otherwise provided, consist of the members of the authority concerned and of such other person, if any, as the authority in each case may think fit.

Constitution of Committees.

38. (1) All casual vacancies among the members (other than *ex officio* members) of any authority or other body of the University shall be filled, as soon as may be, by the person or body who appoints, elects or co-opts the member whose place has become vacant and any person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

Filling of casual vacancies.

39. No act or proceedings of any authority or other body of the University shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.

Proceedings of University authorities or bodies not invalidated by vacancies.

40. No suit or other legal proceedings shall lie against any officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances.

Protection of action taken in good faith.

41. A copy of any receipt, application, notice, order, proceeding, resolution of any authority or Committee of the University, or other documents in possession of the University, or any entry in any register duly maintained by the University, if certified by the Registrar, shall be received as *prima facie* evidence of such receipt, application, notice, order, proceeding, resolution or documents or the existence of entry in the register and shall be admitted as evidence of the matters and transactions therein where the original thereof would, if produced, have been admissible in evidence, notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force.

1 of 1872.

Mode of proof of University record.

42. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Transitional
provisions.

43. Notwithstanding anything contained in this Act and the Statutes,—

(a) the first Chancellor shall be appointed by the Visitor and the said officer shall hold office for a term of five years;

(b) the first Vice-Chancellor shall be appointed by the Visitor in such manner and on such conditions as may be deemed fit and the said officer shall hold office for such term, not exceeding five years as may be specified by the Visitor;

(c) the first Registrar and the first Finance Officer shall be appointed by the Visitor and each of the said officers shall hold office for a term of three years;

(d) the first Court and the first Executive Council shall consist of not more than thirty members and eleven members respectively who shall be nominated by the Visitor and they shall hold office for a term of three years;

(e) the first Academic Council shall consist of not more than twenty-one members who shall be nominated by the Visitor and shall hold office for a term of three years;

Provided that if any vacancy occurs in the above offices or authorities, the same shall be filled by appointment or nomination, as the case may be, by the Visitor, and the person so appointed or nominated shall hold office for so long as the officer or member in whose place he is appointed or nominated would have held that office, if such vacancy had not occurred.

Statutes,
Ordinances and
Regulations to
be published in
the Official
Gazette and to
be laid before
Parliament.

44. (1) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.

(2) Every Statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.

(3) The power to make Statutes, Ordinances or Regulations shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinances or Regulations or any of them but not retrospective effect shall be given to any Statute, Ordinance or Regulation so as to prejudicially affect the interests of any person to whom such Statute, Ordinance or Regulation may be applicable.

THE SCHEDULE

(See section 27)

THE STATUTES OF THE UNIVERSITY

The Chancellor

1. (1) The Chancellor shall be appointed by the Visitor from a panel of not less than three persons recommended by the Executive Council from amongst persons of eminence in the academic or public life of the country:

Provided that if the Visitor does not approve of any of the persons so recommended he may call for fresh recommendations from the Executive Council.

(2) The Chancellor shall hold office for a term of three years and shall be eligible for re-appointment:

Provided that notwithstanding the expiry of his term of office, the Chancellor shall continue to hold office until his successor enters upon his office.

The Vice-Chancellor

2. (1) The Vice-Chancellor shall be appointed by the Visitor from a panel of not less than three persons who shall be recommended by a Committee as constituted under clause (2):

Provided that if the Visitor does not approve of any of the persons included in the panel, he may call for a fresh panel.

(2) The Committee referred to in clause (1) shall consist of three persons, none of whom shall be an employee of the University or an institution associated with the University, or a member of the Executive Council or Academic Council or of any other authority of the University. Out of the three persons, two shall be nominated by the Executive Council and one by the Visitor and the nominee of the Visitor shall be the convenor of the Committee.

(3) The Vice-Chancellor shall be a whole-time salaried officer of the University.

(4) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office, and he shall not be eligible for re-appointment:

Provided that the Visitor may direct any Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by him or till his successor is appointed and enters upon his office, whichever is earlier.

(5) Notwithstanding anything contained in clause (4) a person appointed as Vice-Chancellor shall, if he attains the age of sixty-five years during the term of his office or any extension thereof, retire from office.

(6) The emoluments and other conditions of service of the Vice-Chancellor shall be as follows:—

(i) The Vice-Chancellor shall be paid a monthly salary and allowances other than house rent allowances at the rates fixed by the Central Government from time to time:

Provided that if he assumes office after retiring on superannuation from a pensionable post, his salary and allowances shall be reduced by the gross amount of his pension prior to commutation or the payment of pension shall be held in abeyance until he relinquishes office:

Provided further that if he assumes office after retiring on superannuation from a non-pensionable post, his salary and allowances shall be reduced by the gross amount equivalent of retirement benefits availed of by him on superannuation:

Provided also that where such employee had been a member of any pension scheme, the University shall make the necessary contribution to such scheme.

(ii) The Vice-Chancellor shall be entitled to use rent free furnished residential accommodation maintained by the University.

(iii) The Vice-Chancellor shall be entitled to such terminal benefits and allowances as may be fixed by the Executive Council with the approval of the Visitor from time to time:

Provided that where an employee of the University or an Institution or of any other University or any college or Institution maintained by or affiliated to such other University, is appointed as the Vice-Chancellor he may be allowed to continue to contribute to any provident fund of which he is a member and the University shall contribute to the account of such person in that provident fund at the same rate at which the person had been contributing immediately before his appointment as the Vice-Chancellor:

Provided further that where such employee had been a member of any pension scheme, the University shall make the necessary contribution to such scheme.

(iv) The Vice-Chancellor shall be entitled to travelling allowance at such rates as may be fixed by the Executive Council.

(v) The Vice-Chancellor shall be entitled to leave on full pay at the rate of thirty days in a calendar year and the leave shall be credited to his account in advance in two half yearly instalments of fifteen days each on the 1st day of January and July every year:

Provided that if the Vice-Chancellor assumes or relinquishes charge of the office of the Vice-Chancellor during the currency of a half year the leave shall be credited proportionately at the rate of two and-a-half days for each completed month of service.

(vi) In addition to the leave referred to in sub-clause (v), the Vice-Chancellor shall also be entitled to half pay leave at the rate of twenty days for each completed year of service. This half pay leave may also be availed of as commuted leave on full pay on medical certificate. When commuted leave is availed, twice the amount of half pay leave shall be debited against half pay leave due.

(7) If the office of the Vice-Chancellor becomes vacant due to death, resignation or otherwise, or if he is unable to perform his duties due to ill health or any other cause, the Pro-Vice-Chancellor shall perform the duties of the Vice-Chancellor:

Provided that if the Pro-Vice-Chancellor is not available, the senior-most professor shall perform the duties of the Vice-Chancellor until a new Vice-Chancellor assumes office or until the existing Vice-Chancellor attends to the duties of his office as the case may be.

Powers and duties of the Vice-Chancellor

3. (1) The Vice-Chancellor shall be *ex officio* Chairman of the Executive Council, the Academic Council and the Finance Committee and shall in the absence of the Chancellor preside at the convocations held for conferring degrees and the meetings of the court.

(2) The Vice-Chancellor shall be entitled to be present at, and address, any meeting of any authority or other body of the University, but shall not be entitled to vote thereat unless he is a member of such authority or body.

(3) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes, the Ordinances and the Regulations are duly observed and he shall have all the powers necessary to ensure such observance.

(4) The Vice-Chancellor shall exercise control over the affairs of the University and shall give effect to the decisions of all the authorities of the University.

(5) The Vice-Chancellor shall have all the powers necessary for the proper maintenance of discipline in the University and he may delegate any such powers to such person or persons as he deems fit.

(6) The Vice-Chancellor shall have the power to convene or cause to be convened the meetings of the court, the Executive Council, the Academic Council and the Finance Committee.

Pro-Vice-Chancellor

4. (1) The Pro-Vice-Chancellor shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor:

Provided that where the recommendation of the Vice-Chancellor is not accepted by the Executive Council the matter shall be referred to the Visitor who may either appoint the person recommended by the Vice-Chancellor or ask the Vice-Chancellor to recommend another person to the Executive Council:

Provided further that the Executive Council may, on the recommendation of the Vice-Chancellor, appoint a Professor to discharge the duties of the Pro-Vice-Chancellor in addition to his own duties as a Professor.

(2) The term of office of the Pro-Vice-Chancellor shall be such as may be decided by the Executive Council but it shall not in any case exceed five years or until the expiration of the term of office of the Vice-Chancellor, whichever is earlier:

Provided that the Pro-Vice-Chancellor whose term of office has expired shall be eligible for reappointment:

Provided further that, in any case, the Pro-Vice-Chancellor shall retire on attaining the age of sixty five years.

(3) The emoluments and other terms and conditions of service of the Pro-Vice-Chancellor shall be such as may be prescribed by the Executive Council from time to time.

(4) The Pro-Vice-Chancellor shall assist the Vice-Chancellor in respect of such matters as may be specified by the Vice-Chancellor in this behalf from time to time and shall also exercise such powers and perform such duties as may be assigned or delegated to him by the Vice-Chancellor.

Registrar

5. (1) The Registrar shall be appointed by the Executive Council on the recommendation of a Selection Committee constituted for the purpose and shall be a whole-time salaried officer of the University.

(2) He shall be appointed for a term of five years and shall be eligible for reappointment.

(3) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Registrar shall retire on attaining the age of sixty years:

Provided further that a Registrar shall, notwithstanding his attaining the age of sixty years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(4) When the office of the Registrar is vacant or when the Registrar is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the officer shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) (a) The Registrar shall have power to take disciplinary action against such of the employees, other than teachers and academic staff, as may be specified in the Ordinances, to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or the withholding of increment:

Provided that no such penalty shall be imposed unless the person concerned has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in sub-clause (a).

(c) In a case where the inquiry discloses that a punishment beyond the power of the Registrar is called for, the Registrar shall, upon concluding of the inquiry make a report to the Vice-Chancellor along with his recommendations:

Provided that an appeal shall lie to the Executive Council against an order of the Vice-Chancellor imposing any penalty.

(6) The Registrar shall be *ex officio* Secretary of the Court, the Executive Council the Academic Council and the Boards of Studies, but shall not be deemed to be a member of any of these authorities.

(7) It shall be the duty of the Registrar—

(a) to be the custodian of the records, the common seal and such other property of the University as the Executive Council shall commit to his charges;

(b) to issue all notices convening meetings of the Court, the Executive Council, the Academic Council, the Boards of Studies and of any Committees appointed by those authorities;

(c) to keep the minutes of all the meetings of the Court, the Executive Council the Academic Council and of any Committees appointed by those authorities;

(d) to conduct the official correspondence of the Court, the Executive Council and the Academic Council;

(e) to arrange for and superintend the examinations of the University in accordance with the manner prescribed by the Ordinances;

(f) to supply to the Visitor copies of the agenda of the meetings of the authorities of the University as soon as they are issued and the minutes of such meetings;

(g) to represent the University in suits or proceedings by or against the University, sign powers-of-attorney and verify pleadings or depute his representative for the purpose; and

(h) to perform such other duties as may be specified in the Statutes, the Ordinances or the Regulations or as may be required from time to time by the Executive Council or the Vice-Chancellor.

The Finance Officer

6. (1) The Finance Officer shall be appointed by the Executive Council on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole time salaried officer of the University.

(2) He shall be appointed for a term of five years and shall be eligible for reappointment.

(3) The emoluments and other terms and conditions of service of the Finance Officer shall be such as may be prescribed by the Executive Council from time to time:

Provided that a Finance Officer shall retire on attaining the age of sixty years:

Provided further that the Finance Officer shall, notwithstanding his attaining the age of sixty years continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year whichever is earlier.

(4) When the office of the Finance Officer is vacant or when the Finance Officer is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) The Finance Officer shall be *ex officio* Secretary of the Finance Committee but shall not be deemed to be a member of such Committee.

(6) The Finance Officer shall—

(a) exercise general supervision over the funds of the University and shall advise it as regards its financial policy; and

(b) perform such other financial functions as may be assigned to him by the Executive Council or as may be prescribed by the Statutes or the Ordinances.

(7) Subject to the control of the Executive Council, the Finance Officer shall—

(a) hold and manage the property and investments of the University including trust and endowed property;

(b) ensure that the limits fixed by the Executive Council for recurring and non-recurring expenditure for a year are not exceeded and that all moneys are expended on the purpose for which they are granted or allotted;

(c) be responsible for the preparation of annual accounts and the budget of the University and for their presentation to the Executive Council;

(d) keep a constant watch on the state of the cash and bank balances and on the state of investments;

(e) watch the progress of the collection of revenue and advise on the methods of collection employed;

(f) ensure that the registers of buildings, land, furniture and equipment are maintained up-to-date and that stock-checking is conducted, of equipment and other consumable materials in all offices, Special Centres, Specialised Laboratories and Institutions;

(g) bring to the notice of the Vice-Chancellor unauthorised expenditure and other financial irregularities and suggest disciplinary action against persons at fault; and

(h) call for from any office, Centre, Laboratory or Institution any information or returns that he may consider necessary for the performance of his duties.

(8) Any receipt given by the Finance Officer or the person or persons duly authorised in this behalf by the Executive Council for any money payable to the University shall be sufficient discharge for payment of such money.

Deans of Schools of Studies

7. (1) Every Dean of a School of Studies shall be appointed by the Vice-Chancellor from among the Professors in the School for a period of three years and he shall be eligible for reappointment:

Provided that a Dean on attaining the age of sixty years shall cease to hold office as such:

Provided further that if at any time there is no Dean in a School, the Vice-Chancellor, Pro-Vice-Chancellor or a Dean authorised by the Vice-Chancellor in this behalf, shall exercise the powers of the Dean of the School.

(2) When the office of the Dean is vacant or when the Dean is, by reason of illness, absence or any other cause, unable to perform duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(3) The Dean shall be the Head of the School and shall be responsible for the conduct and maintenance of the standards of teaching and research in the School and shall have such other functions as may be prescribed by the Ordinances.

(4) The Dean shall have the right to be present and to speak at any meeting of the Board of Studies or Committees of the School as the case may be, but shall not have the right to vote thereat unless he is a member thereof.

Heads of Departments

8. (1) In the case of Departments which have more than one Professor the Head of the Department shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor from among the Professors.

(2) In the case of Departments where there is no Professor or there is only one Professor, the Executive Council shall have the option to appoint, on the recommendation of the Vice-Chancellor, either the Professor or a Reader as the Head of the Department:

Provided that it shall be open to a Professor or Reader to decline the offer of appointment as the Head of the Department.

(3) A person appointed as the Head of the Department shall hold office as such for a period of three years and shall be eligible for reappointment.

(4) A Head of a Department may resign his office at any time during his tenure of office.

(5) A Head of a Department shall perform such duties as may be prescribed by the Ordinances.

Proctor

9. (1) The Proctor shall be appointed by the Executive Council on the recommendation of the Vice-chancellor and shall exercise such powers and perform such duties as may be assigned to him by the Vice-Chancellor.

(2) The Proctor shall hold office for a term of two years and shall be eligible for reappointment.

Librarian

10. (1) The Librarian shall be appointed by the Executive Council on the recommendations of the Selection Committee constituted for the purpose and shall be a whole-time salaried officer of the University.

(2) The Librarian shall exercise such powers and perform such duties and shall have such emoluments, terms and conditions of service as may be prescribed by the Executive Council.

The Court

11. Ten members of the Court shall form a quorum for a meeting of the Court.

The Executive Council

12. Five members of the Executive Council shall form a quorum for a meeting of the Executive Council.

Powers and functions of the Executive Council

13. (1) The Executive Council shall have the power of management and administration of the revenue and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

(2) Subject to the provisions of this Act, the Statutes and the Ordinances, the Executive Council shall, in addition to all other powers vested in it, have the following powers, namely:—

(i) to create teaching and academic posts, to determine the number and emoluments of such posts and to define the duties and conditions of service of Professors, Readers, Lecturers and other academic staff and Principals of Institutions maintained by the University.

Provided that no action shall be taken by the Executive Council in respect of the number, qualifications and the emoluments of teachers and academic staff otherwise than after consideration of the recommendations of the Academic Council;

(ii) to appoint such Professors, Readers, Lecturers and other academic staff, as may be necessary and Principals of Institution maintained by the University on the recommendation of the Selection Committee constituted for the purpose and to fill up temporary vacancies therein;

(iii) to create administrative, ministerial and other necessary posts and to make appointments thereto in the manner prescribed by the Ordinances;

(iv) to grant leave of absence to any officer of the University other than the Chancellor and the Vice-Chancellor, and to make necessary arrangements for the discharge of the functions of such officer during his absence;

(v) to regulate and enforce discipline among employees in accordance with the Statutes and the ordinances.

(vi) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University and for that purpose to appoint such agents as it may think fit;

(vii) to fix limits on the total recurring and the total non-recurring expenditure for a year on the recommendations of the Finance Committee;

(viii) to invest any money belonging to the University, including any unapplied income, in such stocks, funds, share or securities, from time to time as it may think fit or in the purchase of immovable property in India with the like powers of varying such investment from time to time;

(ix) to transfer or accept transfers of any movable or immovable property on behalf of the University.

(x) to provide buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University.

- (xi) to enter into, vary, carry out and cancel contracts on behalf of the University:—
- (xii) to entertain, adjudicate upon, and if thought fit, to redress any grievances of the employees and students of the University who may, for any reason, feel aggrieved;
- (xiii) to appoint examiners and moderators and, if necessary, to remove them and to fix their fees, emoluments and travelling and other allowances, after consulting the Academic Council.
- (xiv) to select a common seal for the University and provide for the custody and use of such seal;
- (xv) to make such special arrangements as may be necessary for the residence and discipline of women students;
- (xvi) to delegate any of its powers to the Vice-Chancellor, the Pro-Vice-Chancellor, the Deans, the Registrar or the Finance Officer or such other employee or authority of the University or to a committee appointed by it as it may deem fit;
- (xvii) to institute fellowships, scholarships, studentships, medals and prizes;
- (xviii) to provide for inviting Writers-in-Residence and determine the terms and conditions of such invitations;
- (xix) to provide for the appointment of Visiting Professors, Emeritus Professors; Consultants and Scholars and determine the terms and conditions of such appointments; and
- (xx) to exercise such other powers and perform such other duties as may be conferred or imposed on it by the Act, or the Statutes.

The Academic Council.

14. Ten members of the Academic Council shall form quorum for a meeting of the Academic Council.

Powers and Functions of the Academic Council

15. Subject to the Act, the Statutes and the Ordinances, the Academic Council shall, in addition to all other powers vested in it, have the following powers, namely:—

- (a) to exercise general supervision over the academic policies of the University and to give directions regarding methods of instructions, co-ordinating teaching among the Institutions and evaluation of research or improvement in academic standards;
- (b) to bring about inter-School co-ordination, to establish or appoint committees or boards, for taking up projects on an inter-School basis;
- (c) to consider matters of general academic interest either on its own initiative or on a reference by a School or the Executive Council and to take appropriate action thereon; and
- (d) to frame such regulations and rules consistent with the Statutes and the Ordinances regarding the academic functioning of the University, discipline, residence, admissions, award of fellowship and studentships, fees, concessions, corporate life and attendance.

Schools of Studies and Departments

16. (1) The University shall have the following Schools of Studies, namely:—

- (i) School of Language;
- (ii) School of Literature;
- (iii) School of Culture; and
- (iv) School of Translation and Interpretation.

(2) Every School shall have a School Board and the members of the first School Board shall be nominated by the Executive Council and shall hold office for a period of three years.

(3) The powers and functions of a School Board shall be prescribed by the Ordinances.

(4) The Conduct of the meetings of a School Board and the quorum required for such meetings shall be prescribed by the Ordinances.

(5) (a) Each School shall consist of such Departments as may be assigned to it by the Ordinances:

Provided that the Executive Council may, on the recommendation of the Academic Council, establish Centres of Studies to which may be assigned such teachers of the University as the Executive Council may consider necessary.

(b) Each Department shall consist of the following members, namely:—

(i) Teachers of the Department;

(ii) Persons conducting research in the Department;

(iii) Dean of the School;

(iv) Honorary Professors, if any, attached to the Department; and

(v) such other persons as may be members of the Department in accordance with the provisions of the Ordinances.

17. (1) Each Department shall have a Board of Studies.

(2) The constitution of the Board of Studies and the term of office of its members shall be prescribed by the Ordinances.

(3) Subject to the overall control and supervision of the Academic Council, the functions of the Board of Studies shall be to approve subjects for research for various degrees and other requirements of research degrees and to recommend to the concerned School Board in the manner prescribed by the Ordinances—

(a) courses of studies and appointment of examiners for Post-graduate courses, but excluding research degrees;

(b) appointment of supervisors of research; and

(c) measures for the improvement of the standard of post-graduate teaching and research:

Provided that the above functions of a Board of Studies shall during the period of three years immediately after the commencement of the Act, be performed by the Department.

Finance Committee

18. (1) The Finance Committee shall consist of the following members, namely:—

(i) the Vice-Chancellor;

(ii) the Pro-Vice-Chancellor;

(iii) three persons nominated by the Executive Council, out of whom at least one shall be a member of the Executive Council; and

(iv) three persons nominated by the Visitor.

(2) Five members of the Finance Committee shall form a quorum for a meeting of the Finance Committee.

(3) All the members of the Finance Committee other than *ex officio* members, shall hold office for a term of three years.

(4) The Finance Committee shall meet at least twice every year to examine the accounts and to scrutinise proposals for expenditure.

(5) All proposals relating to creation of posts, and those items which have not been included in the Budget should be examined by the Finance Committee for consideration and comments and thereafter submitted to the Executive Council.

(6) The annual accounts and the financial estimates of the University prepared by the Finance Officer shall be laid before the Finance Committee for consideration and comments and thereafter submitted to the Executive Council for approval.

(7) The Finance Committee shall recommend limits for the total recurring expenditure and the total non-recurring expenditure for the year, based on the income and resources of the University (which in the case of productive works, may include the proceeds of loans).

Selection Committees

19. (1) There shall be Selection Committees for making recommendations to the Executive Council for appointment to the posts of Professor, Reader, Lecturer, Registrar, Finance Officer, Librarian and Principals of Institutions.

(2) The Selection Committee for appointment to the posts specified in column 1 of the Table shall consist of the Vice-Chancellor, Pro-Vice-Chancellor, a nominee of the Visitor and the persons specified in the corresponding entry in column 2 of the said Table:—

TABLE

1	2
Professor	(i) The Dean of the School concerned. (ii) The Head of the Department concerned if he is a Professor. (iii) Three persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Professor will be concerned.
Reader / Lecturer	(i) the Dean of the School concerned. (ii) The Head of the Department concerned. (iii) Two persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Reader or a Lecturer will be concerned.
Registrar, Finance Officer	(i) Two members of the Executive Council nominated by it. (ii) One person not in the service of the University nominated by the Executive Council.

1	2
Librarian	<p>(i) Two persons not in the service of the University, who have special knowledge of the subject of the Library Science / Library Administration to be nominated by the Executive Council.</p> <p>(ii) One person not in the service of the University, nominated by the Executive Council.</p>
Head of the Institution	Three persons not in the service of the University of whom two shall be nominated and one by the Academic Council for their special knowledge of, or interest in, a subject in which instruction is being provided by the Institution.

- Note: 1. Where the appointment is being made for an inter-disciplinary project, the head of the project shall be deemed to be the Head of the Department concerned.
2. The Professor to be nominated shall be Professor concerned with the speciality for which the selection is being made and that the Vice-Chancellor shall consult the Head of the Department and the Dean of School before nominating the Professor.

(3) The Vice-Chancellor, or in his absence, the Pro-Vice-Chancellor shall preside the meetings of a Selection Committee:

Provided that the meetings of the Selection Committee shall be fixed after prior consultation with the subject to the convenience of Visitor's nominee and the persons nominated by the Executive Council under clause (2):

Provided further that the proceedings of the Selection Committee shall not be valid unless—

(a) where the number of Visitor's nominee and the persons nominated by the Executive Council is four in all, at least three of them attend the meeting; and

(b) where the number of Visitor's nominee and the persons nominated by the Executive Council is three in all, at least two of them attend the meeting.

(4) The meeting of Selection Committee shall be convened by the Vice-Chancellor or in his absence by the Pro-Vice-Chancellor.

(5) The procedure to be followed by a Selection Committee in making recommendations shall be laid down in the Ordinances.

(6) If the Executive Council is unable to accept the recommendations made by a Selection Committee, it shall record its reasons and submit the case to the Visitor for final orders.

(7) Appointments to temporary posts shall be made in the manner indicated below:

(i) If the temporary vacancy is for a duration longer than one academic session, it shall be filled on the advice of the Selection Committee in accordance with the procedure indicated in the foregoing clauses:

Provided that if the Vice-Chancellor is satisfied that in the interest of work it is necessary to fill the vacancy, the appointment may be made on a purely temporary basis by a local Selection Committee referred to in sub-clause (ii) for a period not exceeding six months.

(ii) If the temporary vacancy is for a period less than one year, an appointment to such vacancy shall be made on the recommendation of a local Selection Committee consisting of the Dean of the School concerned, the Head of the Department and a nominee of the Vice-Chancellor:

Provided that if the same person holds the offices of the Dean and the Head of the Department, the Selection Committee may contain two nominees of the Vice-Chancellor:

Provided further that in case sudden vacancies of teaching posts caused by death or any other reasons, the Dean may, in consultation with the Head of the Department concerned make a temporary appointment for a month and report to the Vice-Chancellor and the Registrar about such appointment.

(iii) No teacher appointed temporarily shall, if he is not recommended by a regular Selection Committee for appointment under the Statutes, be continued in service on such temporary employment, unless he is subsequently selected by a local Selection Committee of a regular Selection Committee, for a temporary or permanent appointment, as the case may be

Special mode of appointment

20. (1) Notwithstanding anything contained in Statute 19, the Executive Council may invite a person of high academic distinction and professional attainments to accept a post of Professor or Reader or any other academic post in the University, as the case may be, on such terms and conditions as it deems fit, and on the person agreeing to do so appoint him to the post.

(2) The Executive Council may appoint a teacher or any other academic staff working in any other University or organisation for undertaking a joint project in accordance with the manner laid down in the Ordinances.

Appointment for a fixed tenure

21. The Executive Council may appoint a person selected in accordance with procedure laid down in Statute 19 for a fixed tenure on such terms and conditions as it deems fit.

Committees

22. (1) Any authority of the University may appoint as many standing or special Committees as it may deem fit, and may appoint to such Committees persons who are not members of such authority.

(2) Any such Committees appointed under clause (1) may deal with any subject delegated to it subject to subsequent confirmation by the authority appointing.

Terms and conditions of service and code of conduct of the teachers, etc.

23. (1) All the teachers and other academic staff of the University shall, in the absence of any agreement to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

(2) Every teacher and member of the academic staff of the University shall be appointed on a written contract, the form of which shall be prescribed by the Ordinances.

(3) A copy of every contract referred to in clause (2) shall be deposited with the Registrar.

Terms and conditions of service and code of conduct of other employees

24. All the employees of the University other than the teachers and other academic staff of the University, shall in the absence of any contract to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the statutes, the Ordinances and the Regulations.

Seniority list

25. (1) Whenever, in accordance with the Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade and in accordance with such other principles as the Executive Council may frame from time to time.

(2) It shall be the duty of the Registrar to prepare and maintain in respect of each class of persons to whom the provisions of these Statutes apply a complete and up-to-date seniority list in accordance with the provisions of clause (1).

(3) If two or more persons have equal length of continuous service in a particular grade or the relative seniority of any person or persons is otherwise in doubt, the Registrar may on his own motion and shall at the request of any such person submit the matter to the Executive Council whose decision thereon shall be final.

Removal of employees of the University

26. (1) Where there is an allegation of misconduct against a teacher, a member of the academic staff or other employee of the University, the Vice-Chancellor in the case of the teacher or member of the academic staff and the authority competent to appoint (hereinafter referred to as the appointing authority) in the case of other employee may, by order in writing place such teacher, member of the academic staff or other employee, as the case may be, under suspension and shall forthwith report to the Executive Council the circumstances in which the order was made:

Provided that the Executive Council may, if it is of the opinion that the circumstances or the case do not warrant the suspension of the teacher or a member of the academic staff, revoke such order.

(2) Notwithstanding anything contained in the terms of the contract of appointment or of any other terms and conditions of service of the employee, the Executive Council in respect of teachers and other academic staff, and the appointing authority, in respect of other employees, shall have the power to remove a teacher or a member of the academic staff, or as the case may be, other employee on ground of misconduct.

(3) Save as aforesaid, the Executive Council or as the case may be, the appointing authority shall not be entitled to remove any teacher, member of the academic staff or other employee except for a good cause and after giving three months notice or on payment of three months salary in lieu thereof.

(4) No teacher, member of the academic staff or other employee shall be removed under clause (2) or clause (3) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(5) The removal of a teacher, member of the academic staff or other employee shall take effect from the date on which the order of removal is made:

Provided that where the teacher, member of the academic staff or other employee is under suspension at the time of his removal, such removal shall take effect from the date on which he was placed under suspension.

(6) Notwithstanding anything contained in the foregoing provisions of this Statute, a teacher, member of the academic staff or other employee may resign,—

(a) if he is a permanent employee, only after giving three months' notice in writing to the Executive Council or the appointing authority, as the case may be, or by paying three months' salary in lieu thereof;

(b) if he is not a permanent employee, only after giving one month's notice in writing to the Executive Council or, as the case may be, the appointing authority or by paying one month's salary in lieu thereof:

Provided that such resignation shall take effect only on the date on which the resignation is accepted by the Executive Council or the appointing authority, as the case may be.

Honorary degrees

27. (1) The Executive Council may, on the recommendation of the Academic Council and by a resolution passed by a majority of not less than two-thirds of the members present and voting, make proposals to the Visitor for the conferment of honorary degrees:

Provided that in case of emergency the Executive Council may on its own motion, make such proposals.

(2) The Executive Council may, by a resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw, with the previous sanction of the Visitor, any honorary degree conferred by the University.

Withdrawal of degrees, etc.

28. The Executive Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw any degree or academic distinction conferred on, or any certificate or diploma granted to, any person by the University for good and sufficient cause:

Provided that no such resolution shall be passed until a notice in writing has been given to that person calling upon him to show cause within such time as may be specified in the notice why such a resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them, have been considered by the Executive Council.

Maintenance of discipline among students of the University

29. (1) All powers relating to discipline and disciplinary action in relation to students of the University shall vest in the Vice-Chancellor.

(2) The Vice-Chancellor may delegate all or any of his powers as he deems proper to a Proctor and to such other officers as he may specify in this behalf.

(3) Without prejudice to the generality of his powers relating to the maintenance of discipline, and taking such action as may seem to him appropriate for the maintenance of discipline, the Vice-Chancellor may, in exercise of his powers, by order, direct that any student or students be expelled, or rusticated, for specific period, or be not admitted to a course or courses of study in an Institution or Department of the University for stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, Institution or Department or a School for one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be cancelled.

(4) The Heads of Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University shall have the authority to exercise all such powers over the students in their respective Institutions, Schools and teaching Departments as may be necessary for the proper conduct of such Institutions, Schools and teaching Departments.

(5) Without prejudice to the powers of the Vice-Chancellor, and other persons specified in clause (4), detailed rules of discipline and proper conduct shall be made by the University. The Principals of Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University may also make the supplementary rules as they deem necessary for the aforesaid purposes.

Convocations

30. Convocations of the University for the conferring of degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances.

Acting Chairman of meetings

31. Where no provision is made for a President or Chairman to preside over a meeting of any authority of the University or any Committee of such authority or when the President or Chairman so provided for is absent, the members present shall elect one from among themselves to preside at such meeting.

Resignation

32. Any member other than an *ex-officio* member, of the Court, the Executive Council, the Academic Council or any other authority of the University or any Committee of such authority may resign by letter addressed to the Registrar and the resignation shall take effect as soon as such letter is received by the Registrar.

Disqualification

33. (1) A person shall be disqualified for being chosen as, and for being a member of any of the authorities of the university:—

(i) if he is of unsound mind;

(ii) if he is an undischarged insolvent;

(iii) if he has been convicted by a court of law of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months.

(2) If any question arises as to whether a person is or had been subjected to any of the disqualifications mentioned in clause (1), the question shall be referred to the Visitor and his decision shall be final and no suit or other proceeding shall lie in any civil court against such decision.

Residence condition for membership and office

34. Notwithstanding anything contained in the Statutes, a person who is not ordinarily resident in India shall not be eligible to be an officer of the University or a member of any authority of the University.

Membership of authorities by virtue of membership of other bodies

35. Notwithstanding anything contained in the Statutes, a person who holds any post in the University or is a member of any authority or body of the University in his capacity as a member of a particular authority or body or as the holder of a particular appointment shall hold such office or membership only for so long as he continues to be a member of that particular authority or body or the holder of that particular appointment, as the case may be.

Ordinances how made

36. (1) The first Ordinances made under sub-section (2) of section 28 may be amended, repealed or added to at any time by the Executive Council in the manner specified below.

(2) No Ordinance in respect of the matters enumerated in section 28, other than the one enumerated in clause (m) of sub-section (1) thereof, shall be made by the Executive Council unless a draft of such Ordinance has been proposed by the Academic Council.

(3) The Executive Council shall not have power to amend any draft of any Ordinance proposed by the Academic Council under clause (2) but may reject the proposal or return the draft to the Academic Council for re-consideration either in whole or in part, together with any amendment which the Executive Council may suggest.

(4) Where the Executive Council has rejected or returned the draft of an Ordinance proposed by the Academic Council, the Academic Council may consider the question afresh and in case the draft is reaffirmed by a majority of not less than two-thirds of the members present and voting and more than half the total number of members of the Academic Council, the draft may be sent back to the Executive Council which shall either adopt it or refer it to the Visitor whose decision shall be final.

(5) Every Ordinance made by the Executive Council shall come into effect immediately.

(6) Every Ordinance made by the Executive Council shall be submitted to the Visitor within two weeks from the date of its adoption. The Visitor shall have the power to direct the University within four weeks of the receipt of the Ordinance to suspend the operation of any such Ordinance and he shall, as soon as possible, inform the Executive Council about his objection to the proposed Ordinance. The Visitor may, after receiving the comments of the University, either withdraw the order suspending the Ordinance or disallow the Ordinance and his decision shall be final.

Regulations

37. (1) The authorities of the University may make Regulations consistent with the Act, the Statutes and the Ordinances for the following matters, namely:—

(i) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(ii) providing for all matters which are required by the Act, the Statutes or the Ordinances to be prescribed by Regulations;

(iii) providing for all other matters solely concerning such authorities or committees appointed by them and not provided for by the Act, the Statutes or the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meeting and of the business to be considered at meetings and for the keeping of a record of the proceeding of meetings.

(3) The Executive Council may direct the amendment in such manner as it may specify of any Regulation made under the Statutes or the annulment of any such Regulation.

Delegation of powers

38. Subject to the provisions of the Act and the Statutes any officer or authority of the University may delegate his or its powers to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers.

K. L. MOHANPURIA,
Secretary to the Govt. of India,

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette
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Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 30th August, 1997.

No. RP-13-97-Ord-10/ /E.—The following ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 25th January, 1997 is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 24th January, 1997/Megha 4, 1918 (Saka)

**THE LALIT KALA AKADAMI (TAKING OVER OF
MANAGEMENT) ORDINANCE, 1997**

(No. 10 of 1997)

(24th January, 1997)

Promulgated by the President in the Forty-seventh Year of the Republic of India.

An Ordinance to provide for the taking over of the management of the Lalit Kala Akadami for a limited period in the public interest and for matter connected therewith or incidental thereto.

WHEREAS the Lalit Kala Akadami was set up as an apex cultural body in the field of visual arts by the Government of India by Parliamentary Resoulution passed on the 5th August, 1954 to encourage and promote visual arts, paintings, graphics, sculptures, etc.;

AND WHEREAS the Lalit Kala Akadami was registered as a society under the Societies Registration Act, 1860 (21 of 1860) on the 11th March, 1957;

AND WHEREAS the Akadami has full functional autonomy in the field of its activity, even though the Government of India is the sole-funding agency for the organisation;

AND WHEREAS pursuant to the complaints received with regard to the misuse of funds by the Lalit Kala Akadami from several quarters including from the Hon'ble Members of Parliament, a Committee was set up by the Government of India by Resolution dated the 24th March, 1988 under the Chairmanship of Shri P.N.Haksar to go into the functioning of the Lalit Kala Akadami and the said Committee, after a detailed scrutiny of the affairs and irregularities in the management of the said Akadami, recommended the restructuring of their General Council, Executive Board and the electoral roll, of the artists constituency;

AND WHEREAS, in view of the serious difficulties which have arisen with regard to the management of the Lalit Kala Akadami, it is necessary to take over, for a limited period, the management thereof and it is felt that any delay in taking over the management of the Lalit Kala Akadami would be highly detrimental to the interests and objectives of Akadami;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

Short title
and com-
mencement.

1. (1) This Ordinance may be called the Lalit Kala Akadami (Taking Over of Management) Ordinance, 1997.

(2) It shall come into force at once.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(a) "Administrator" means a person appointed as the Administrator under section 4;

(b) "prescribed" means prescribed by rules made under this Ordinance;

(c) "Societies Registration Act" means the Societies Registration Act, 1860, as 21 of 1860. in force in the National Capital Territory of Delhi;

(d) "society" means the Lalit Kala Akadami being a society registered under the Societies Registration Act;

(e) words and expressions used herein and not defined, but defined in the Societies Registration Act shall have the meanings respectively assigned to them in that Act.

CHAPTER II

TAKING OVER OF THE MANAGEMENT OF THE LALIT KALA AKADAMI

3. (1) On and from the commencement of this Ordinance, and for a period of three years thereafter, the management of the society shall vest in the Central Government:

Management
of the
society.

Provided that if the Central Government is of opinion that in order to secure the proper management of the society, it is expedient that such management should continue to vest in the Central Government after the expiry of the said period of three years, it may, from time to time, issue directions for the continuance of such management for such period, not exceeding one year at a time, as it may think fit; so, however, that the total period for which such management shall continue to vest in the Central Government shall not, in any case, exceed five years.

(2) The management of the society shall be deemed to include management of all assets, rights, lease-holds, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works of art, workshops, projects, stores, instruments, library, machinery, automobiles and other vehicles, cash balances, reserve funds, investments and book debts and all other rights and interests arising out of such property as were immediately before the commencement of this Ordinance in the ownership, possession, power or control of the society, and all such books of account, registers, maps, plans and all other documents of whatever nature relating thereto.

(3) Any contract, whether express or implied, or other arrangement, in so far as it relates to the management of the undertaking and affairs of the society and in force immediately before the commencement of this Ordinance shall be deemed to have terminated on such commencement.

(4) All persons in charge of the management of the society, including persons holding offices as Chairman, Vice-Chairman, Secretary or Honorary Secretary, as the case may be, and members of the General Council, Executive Board, Finance Committee and all other committees of the society immediately before the commencement of this Ordinance shall be deemed to have vacated their offices as such on such commencement.

4. (1) The Central Government shall, as from commencement of this Ordinance, appoint a person as the Administrator of the undertaking for the purpose of taking over the administration thereof and the Administrator shall carry on the management of the undertaking for and on behalf of the Central Government.

Adminis-
trator of
the society.

(2) Subject to the supervision, control and directions of the Administrator, the functions of the finance Committee of the Society, before the commencement of this Ordinance, shall be exercised by an officer of the Central Government, to be appointed by that Government.

(3) The Central Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any court, tribunal or other authority) to the Administrator as to his powers and duties as that Government may deem desirable and the Administrator may apply to the Central Government at any time for instructions as to the manner in which he shall conduct the management of the society or in relation to any matter arising in the course of such management.

(4) Subject to the other provisions of this Ordinance and the rules made thereunder and to the control of the Central Government, the Administrator shall be entitled, notwithstanding anything contained in the Societies Registration Act or in any other law for the time being in force, to exercise, in relation to the management of the society, the powers of the General Council, or, as the case may be, the Executive Board, including the powers to dispose of any property or assets of such society, whether such powers are derived under any law for the time being in force or from the memorandum and rules and regulations of the society or from any other source.

(5) Every person having possession, custody or control of any property forming part of the society shall deliver forthwith such property to the Administrator.

(6) Any person who, on the commencement of this Ordinance has in his possession or under his control any books, papers, works of art or other documents relating to management of the society, including the minutes books containing the resolutions of the persons in charge of the management of the society before the commencement of this Ordinance, the current cheque books relating to the management of the society, any letters, memoranda, notes or other communications between him and the society shall, notwithstanding anything contained in any other law for the time being in force, be liable to account for the books, papers, works of art and other documents (including such minutes books, cheque books, letters, memoranda, notes or other communications) to the Administrator.

(7) Any person in charge of the administration of the society immediately before the commencement of this Ordinance shall, within ten days from that day or within such further period as the Central Government may allow in this behalf, furnish to the Administrator a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) forming part of the society immediately before the commencement of this Ordinance and of all the liabilities and obligations of the society, in relation to its administration, subsisting immediately before such commencement, and also of all agreements entered into by the society in relation to its administration and in force immediately before such commencement.

(8) The Administrator shall receive from the funds of the society such remuneration as the Central Government may fix.

No right to compensation for premature termination of a contract.

5. Notwithstanding anything contained in any law for the time being in force, no person in respect of whom any contract of management or other arrangement is terminated by reason of the provisions contained in sub-section (3) of section 3 or who ceases to hold any office by reason of the provisions contained in sub-section (4) of that section, shall be entitled to claim any compensation for the premature termination of the contract of administration or other arrangement or for the loss of his office.

Relinquishment of administration of the society.

6. (1) Notwithstanding anything contained in sub-section (1) of section 3, if, at any time before the expiry of the period referred to in that sub-section, it appears to the Central Government that the purposes of the vesting of the management of the society in that Government have been fulfilled or that for any other reason it is not necessary that the management of the society should remain vested in that Government, it may, by order published in the Official Gazette, relinquish the management of the society with effect from such date as may be specified in the order.

(2) On and from the date specified under sub-section (1), the administration of the society shall vest in the General Council of the society and such management shall be carried on in accordance with the provisions of the Societies Registration Act so, however, that the steps, if any, in relation to the management of the society may be taken after the publication of the order under sub-section (1).

7. (1) Notwithstanding anything contained in the Societies Registration Act or in the memorandum and rules and regulations of the society, but subject to the provisions of sub-section (2) of section 6, so long as the management of the society remains vested in the Central Government,—

Application
of Act 21
of 1860.

(a) it shall not be lawful for the members of the society or any other person to nominate or appoint any person to be a member of the General Council of the society;

(b) no resolution passed at any meeting of the members of the society or at any meeting of the General Council of the society, on or after the commencement of this Ordinance, shall be given effect to unless approved by the Central Government;

(c) no proceeding for the dissolution of the society or for the merger with any other society or for the appointment of a Receiver in respect of its administration shall lie in any court except with the consent of the Central Government.

(2) Subject to the provisions contained in sub-section (1) and subject to such other exceptions, restrictions and limitations, if any, as may be prescribed, the Societies Registration Act shall continue to apply to the society in the same manner as it applied thereto before the commencement of this Ordinance.

CHAPTER III

MISCELLANEOUS

8. Any person who,—

Penalties.

(a) having in his possession or custody or under his control any property forming part of the society, wrongfully withholds such property from the Administrator or any person authorised under this Ordinance, or

(b) wrongfully obtains possession of any such property, or

(c) wilfully retains, or fails to deliver, any property forming part of the society or removes or destroys it, or

(d) wilfully withholds or fails to account for any books, papers, works of art or other documents which may be in his possession or custody or under his control to the Administrator or any person authorised under this Ordinance, or

(e) fails, without any reasonable cause, to furnish information or particulars as provided in sub-section (6) of section 4,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

9. (1) Where an offence under this Ordinance has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by
Companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Exclusion
of period
of operation
of
Ordinance.

10. In computing the period of limitation prescribed by any law for the time being in force for any suit or application against any person by the society in respect of any matter arising out of any transaction in relation to its management, the time during which this Ordinance is in force shall be excluded.

Ordinance
to have
overriding
effect.

11. The provisions of this Ordinance or any notification, order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Ordinance or in any instrument having effect by virtue of any law other than this Ordinance or in any decree or order of any court.

Protection
of action
taken in
good faith.

12. (1) No suit, prosecution or other legal proceeding shall lie against the Administrator or any officer of the Central Government or any other person for anything which is in good faith done or intended to be done under this Ordinance.

(2) No suit or other legal proceeding shall lie against the Central Government or the Administrator or any officer of the Central Government or any other person for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Ordinance.

Contracts
in bad
faith may
be cancelled
or varied.

13. (1) If the Central Government is satisfied, after such inquiry as it may think fit, that any contract or agreement entered into at any time within one year immediately preceding the commencement of this Ordinance, between the society and any other person, in so far as such contract or agreement relates to the management of the society, has been entered into in bad faith, or is detrimental to the interests of the society, it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) such contract or agreement and thereafter the contract or agreement shall have effect accordingly:

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(2) Any person aggrieved by an order under sub-section (1) may make an application to the High Court at Delhi for the variation or reversal of such order and thereupon such court may confirm, modify or reverse such order.

14. If the Administrator is of opinion that any contract of employment entered into by the society in relation to its management, at any time before the commencement of this Ordinance, is unduly onerous, he may, by giving to the employee one month's notice in writing or the salary or wages for one month in lieu thereof, terminate such contract of employment.

Power to terminate contract of employment.

15. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

Power to make rules.

(2) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 30th August, 1997.

No. RP-24-97-Act-40/96/E.—The following Act of Parliament is
 re-published for general information:

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 24th December, 1996/Paush 3, 1918 (Saka)

The following Act of Parliament received the assent of the President on the
 24th December, 1996 and is hereby published for general information.

**THE PROVISIONS OF THE PANCHAYATS (EXTENSION TO THE
 SCHEDULED AREAS) ACT, 1996.**

(No. 40 of 1996)

AN ACT

(24th December, 1996)

*to provide for the extension of the provisions of Part IX of the Constitution relating
 to the Panchayats to the Scheduled Areas.*

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as
 follows:—

1. This Act may be called the Provisions of the Panchayats (Extension to the
 Scheduled Areas) Act, 1996. Short title.
2. In this Act, unless the context otherwise requires, "Scheduled Areas" means
 the Scheduled Areas as referred to in clause (1) of article 244 of the Constitution. Definition.
3. The provisions of Part IX of the Constitution relating to Panchayats are
 hereby extended to the Scheduled Areas subject to such exceptions and modifications
 as are provided in section 4. Extension of
 Part IX of the
 Constitution.

Exceptions and
modifications
to Part IX of
the Constitu-
tion.

4. Notwithstanding anything contained under Part IX of the Constitution, the Legislature of a State shall not make any law under that Part which is inconsistent with any of the following features, namely:—

(a) a State legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources;

(b) a village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs;

(c) every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level;

(d) every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution;

(e) every Gram Sabha shall—

(i) approve the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level;

(ii) be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes;

(f) every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilisation of funds by that Panchayat for the plans, programmes and projects referred to in clause (e);

(g) the reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given under Part IX of the Constitution:

Provided that the reservation for the Scheduled Tribes shall not be less than one-half of the total number of seats;

Provided further that all seats of Chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes;

(h) the State Government may nominate persons belonging to such Scheduled Tribes as have no representation in the Panchayat at the intermediate level or the Panchayat at the district level:

Provided that such nomination shall not exceed one-tenth of the total members to be elected in that Panchayat;

(i) the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level;

(j) planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level;

(k) the recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas;

(l) the prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of concession for the exploitation of minor minerals by auction;

(m) while endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State Legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specifically with—

(i) the power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant;

(ii) the ownership of minor forest produce;

(iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe;

(iv) the power to manage village markets by whatever name called;

(v) the power to exercise control over money lending to the Scheduled Tribes;

(vi) the power to exercise control over institutions and functionaries in all social sectors;

(vii) the power to control over local plans and resources for such plans including tribal sub-plans;

(n) the State legislations that may endow Panchayats with powers and authority as may be necessary to enable them to function as institutions of self-government shall contain safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha;

(o) the State Legislature shall endeavour to follow the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at district levels in the Scheduled Areas.

5. Notwithstanding anything in Part IX of the Constitution with exceptions and modifications made by this Act, any provision of any law relating to Panchayats in force in the Scheduled Areas immediately before the date on which this Act receives the assent of the President which is inconsistent with the provisions of Part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from the date on which this Act receives the assent of the President:

Continuance of
existing laws
and
Panchayats.

Provided that all the Panchayats existing immediately before such date shall continue till the expiration of their duration unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having Legislative Council, by each House of the Legislature of that State.

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H.K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 30th August, 1997.

No. RP-27-97-Act-1/97/ E—The following Act of Parliament is
 re-published for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 8th January, 1997/Paush 18, 1918 (Saka)

The following Act of Parliament received the assent of the President on the
 8th January, 1997 and is hereby published for general information.

THE INDIAN CONTRACT (AMENDMENT) ACT, 1996.

(Act No. 1 of 1997)

An Act

(8th January, 1997.)

further to amend the Indian Contract Act, 1872.

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as
 follows:—

1. This Act may be called the Indian Contract (Amendment) Act, 1996.

Short title.

9 of 1872.

2. In section 28 of the Indian Contract Act, 1872, for the portion beginning with
 the words "Every agreement" and ending with the words "is void to that extent.", the
 following shall be substituted, namely:—

Amendment of
 section 28.

"Every agreement,—

(a) by which any party thereto is restricted absolutely from enforcing his
 rights under or in respect of any contract, by the usual legal proceedings in the
 ordinary tribunals, or which limits the time within which he may thus enforce
 his rights; or

(b) which extinguishes the rights of any party thereto, or discharges any party thereto from any liability, under or in respect of any contract on the expiry of a specified period so as to restrict any party from enforcing his rights,

is void to that extent.”.

K. L. MOHANPURIA,
Secy. to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,
 Sachivalaya, Gandhinagar, 30th August, 1997.

No. RP/31/97/Act-5/97/ /E : The following Act of Parliament is re-
 published for general information.

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS,
(Legislative Department)

New Delhi, the 8th January, 1997/Paush 18, 1918 (Saka)

The following Act of Parliament received the assent of the President on
 the 8th January, 1997 and is hereby published for general information :

THE COMPANIES (AMENDMENT) ACT, 1996
 (No. 5 of 1997) **AN ACT** (8th January, 1997)
further to amend the Companies Act, 1956.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as
 follows:—

1. (1) This Act may be called the Companies (Amendment) Act, 1996.

Short title
 and commence-
 ment.

(2) It shall come into force on such date as the Central Government may, by
 notification in the Official Gazette, appoint and different dates may be appointed for
 different provisions of this Act.

1. of 1956.

2. In section 17 of the Companies Act, 1956 (hereinafter referred to as the principal
 Act),—

Amendment of
 section 17.

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The alteration of the provisions of memorandum relating to the
 charge of the place of its registered office from one State to another shall not

take effect unless it is confirmed by the Company Law Board on petition.”;

(b) in sub-section (5), the words “either wholly or in part, and” shall be omitted.

Amendment of
section 18.

3. In section 18 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) A company shall file with the Registrar—

(a) a special resolution passed by a company in relation to clauses (a) to (g) of sub-section (1) of section 17, within one month from the date of such resolution; or

(b) a certified copy of the order of the Company Law Board made under sub-section (5) of that section confirming the alteration, within three months from the date of order,

as the case may be, together with a printed copy of the memorandum as altered and the Registrar shall register the same and certify the registration under his hand within one month from the date of filing of such documents.”

Amendment of
section 58A.

4. In section 58A of the principal Act, in sub-section (2),—

(a) in clause (a), the word “and” shall be omitted;

(b) in clause (b), for the word “prescribed”, the words “prescribed, and” shall be substituted;

(c) after clause (b), the following clause shall be inserted, namely:—

“(c) the company is not in default in the repayment of any deposit or part thereof and any interest thereupon in accordance with the terms and conditions of such deposit.”

Amendment of
section 80.

5. In section 80 of the principal Act, for sub-section (5A), the following sub-section shall be substituted, namely:—

“(5A) Notwithstanding anything contained in this Act, no company limited by shares shall, after the commencement of the Companies (Amendment) Act, 1996, issue any preference share which is irredeemable or is redeemable after the expiry of a period of twenty years from the date of its issue.”

Amendment of
section 153B.

6. In section 153B of the principal Act, in sub-section (4),—

(a) in clause (b), in sub-clause (ii), for the words “whichever is less.”, the words “whichever is less, or” shall be substituted;

(b) after clause (b) and before the *Explanation*, the following clause shall be inserted, namely:—

“(c) where the trust is created, to set up a Mutual Fund or Venture Capital Fund or such other fund as may be approved by the Securities and Exchange Board of India established under sub-section (1) of section 3 of the Securities and Exchange Board of India Act, 1992.”

Amendment of
section 370.

7. In section 370 of the principal Act, after sub-section (1F), the following sub-section shall be inserted, namely:—

“(1G) A company, which has defaulted in the repayment of any deposit referred to in section 58A or part thereof or interest thereupon in accordance with the terms and conditions of such deposit, shall not make any loan or give guarantee under this section till the default is made good.”

Amendment of
section 372.

8. In section 372 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) A company, which has defaulted in the repayment of any deposit referred to in section 58A or part thereof or interest due thereupon in accordance with the terms and conditions of such deposit, shall not make any investment under this section till the default is made good.”

9. In section 530 of the principal Act, in sub-section (2), for the words "exceed one thousand rupees", the words "exceed such sum as may be notified by the Central Government in the Official Gazette" shall be substituted.

Amendment of section 530.

10. After section 610 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 610A.

610A. (1) Notwithstanding anything contained in any other law for the time being in force,—

Admissibility of micro films, facsimile copies of documents, computer printouts and documents on computer media as documents and as evidence.

(a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or

(b) a facsimile copy of a document; or

(c) a statement contained in a document and included in a printed material produced by a computer (hereinafter referred to as a "computer printout"), if the conditions mentioned in sub-section (2) are satisfied,

shall be deemed to be also a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence should be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer printout shall be the following, namely:—

(a) the information contained in the statement reproduces or is derived from returns and document filed by the company on paper or on computer network, floppy, diskette, magnetic cartridge tape, CD-rom or any other computer readable media;

(b) while receiving returns or documents on computer media, necessary checks by scanning the documents filed on computer media will be carried out and media will be duly authenticated by the Registrar; and

(c) the Registrar shall also take due care to preserve the computer media by duplicating, transferring, mastering or storage without loss of data.

K. L. MOHANPURIA,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,

Sachivalaya, Gandhinagar, 30th August, 1997.

No. RP/30/97/Act-4/97/ /E : The following Act of Parliament is
 re-published for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS,
(Legislative Department)

New Delhi, the 8th January, 1997/Paush 18, 1918 (Saka)

The following Act of Parliament received the assent of the President on
 the 8th January, 1997 and is hereby published for general information :

THE APPRENTICES (AMENDMENT) ACT, 1996

(No. 4 of 1997)

AN ACT

(8th January, 1997)

further to amend the Apprentices Act, 1961.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as
 follows:—

1. This Act may be called the Apprentices (Amendment) Act, 1996.

Short title.

52 of 1961.

2. In the Apprentices Act, 1961 (hereinafter referred to as the principal Act), in
 section 2,—

Amendment of
 section 2.

(i) in clause (g), the following shall be added at the end, namely:—

“and where an establishment consists of different departments or have
 branches, whether situated in the same place or at different places,
 all such departments or branches shall be treated as part of that
 establishment”;

(ii) after clause (q), the following clause shall be inserted, namely:—

“(r) “worker” means any person who is employed for wages in any kind
 of work and who gets his wages directly from the employer but shall not
 include an apprentice referred to in clause (aa).”

Amendment of
section 7.

3. In section 7 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Notwithstanding anything contained in any other provision of this Act, where a contract of apprenticeship has been terminated by the Apprenticeship Adviser before the expiry of the period of apprenticeship training and a new contract of apprenticeship is being entered into with a new employer, the Apprenticeship Adviser may, if he is satisfied that the contract of apprenticeship with the previous employer could not be completed because of any lapse on the part of the previous employer, permit the period of apprenticeship training already undergone by the apprentice with his previous employer to be included in the period of apprenticeship training to be undertaken with the new employer.”

Amendment of
section 8.

4. In section 8 of the principal Act, in sub-section (3), after the first proviso, the following proviso shall be added, namely:—

“Provided further that the Apprenticeship Adviser may, on a representation made to him by an employer and keeping in view the more realistic employment potential, training facilities and other relevant factors, permit him to engage such number of apprentices for a designated trade as is lesser than the number arrived at by the ratio for that trade, not being lesser than twenty per cent. of the number so arrived at, subject to the condition that the employer shall engage apprentices in other trades in excess in number equivalent to such shortfall.”

Amendment
of section 9.

5. In section 9 of the principal Act, in sub-section (8),—

(i) in clause (a), for the words “practical training, including basic training,” the words “basic training” shall be substituted;

(ii) in sub-clause (i), for the words “five hundred”, the words “two hundred and fifty” shall be substituted;

(iii) in sub-clause (ii), for the words “five hundred”, the words “two hundred and fifty” shall be substituted.

Amendment of
section 11.

6. In section 11 of the principal Act,—

(i) in clause (b), the word “and”, occurring at the end, shall be omitted;

(ii) after clause (b), the following clause shall be inserted, namely:—

“(bb) to provide adequate instructional staff, possessing such qualifications as may be prescribed, for imparting practical and theoretical training and facilities for trade test of apprentices; and”

Amendment of
section 31.

7. In section 31 of the principal Act, for the words “which may extend to five hundred rupees”, the words “which shall not be less than one thousand rupees but may extend to three thousand rupees” shall be substituted.

Amendment of
section 33.

8. In section 33 of the principal Act, after the words “Apprenticeship Adviser”, the words “or the officer of the rank of Deputy Apprenticeship Adviser and above” shall be inserted.

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette
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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,
 Sachivalaya, Gandhinagar, 5th August, 1997.

No. RP-15-97-Ord-8/40/E.—The following ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 25th January, 1997 is republished for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
 (Legislative Department)

New Delhi, the 24th January, 1997/Magha 4, 1918 (Saka)

THE ELECTRICITY LAWS (AMENDMENT) ORDINANCE, 1997
 (No. 8 of 1997) (24th January, 1997)

Promulgated by the President in the Forty-seventh Year of the
 Republic of India.

An Ordinance further to amend the Indian Electricity Act, 1910 and the
 Electricity (Supply) Act, 1948.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Electricity Laws (Amendment) Ordinance, 1997.

(2) It shall come into force at once.

Short title
 and com-
 mencement.

CHAPTER II

AMENDMENTS TO THE INDIAN ELECTRICITY ACT, 1910,

Amendment
of section
2.

2. In the Indian Electricity Act, 1910 (hereafter in this Chapter referred to as the Electricity Act), in section 2,—

(i) after clause (b), the following clause shall be inserted, namely:—

"(ba) "area of transmission" means the area within which alone a transmission licensee is for the time being authorised by his license to transmit energy;"

(ii) after clause (g), the following clauses shall be inserted, namely:—

"(ga) "inter-State transmission" means transmission from one State to another State;

"(gb) "intra-State transmission" means transmission within the State;"

(iii) after clause (m), the following clauses shall be inserted, namely:—

"(ma) "transmission license" means a license granted under Part II A to transmit energy;

"(mb) "transmission licensee" means any person who holds a transmission license;

"(mc) "transmit" means conveyance of energy by means of main transmission lines and the expression "transmission" shall be construed accordingly;"

Insertion of
of new
Part IIA.

3. After Part II of the Electricity Act, the following Part shall be inserted, namely:—

"PART IIA.

TRANSMISSION OF ENERGY

Grant of
transmission
license.

27A. (1) The State Government or any authority notified by that Government may, on application made in the prescribed form and on payment of the prescribed fee, if any, grant a transmission license, subject to such terms and conditions as may be prescribed, to any person for intra-State transmission of energy in the area of transmission within the State.

(2) The Central Government or any authority notified by that Government may, on application made in the prescribed form and on payment of the prescribed fee, if any, grant a transmission license, subject to such terms and conditions as may be prescribed, to any person for inter-State transmission of energy in the area of transmission.

(3) The provisions of sections 12 to 19 (both inclusive) and clauses XIV to XVII (both inclusive) of the Schedule shall, as far as may be, apply to a transmission license, subject to the modifications that references to "license" and "licensee" shall be construed as references to "transmission license" and "transmission licensee" respectively."

4. In section 30 of the Electricity Act, after the word "licensee", the words "transmission licensee" shall be inserted.

Amendment
of section
30.

5. In section 37 of the Electricity Act, in sub-section (2),—

Amendment
of section
37.

(i) in clause (a), for the word "licenses", the words "licenses and transmission licenses" shall be substituted;

(ii) after clause (c), the following clause shall be inserted, namely:—

"(ca) prescribe the terms and conditions for grant of transmission license;"

6. In section 51 of the Electricity Act, for the words "licensee or any other person engaged in the business of supplying energy", the words "licensee, transmission licensee or any other person engaged in the business of transmission or supplying energy" shall be substituted.

Amendment
of section
51.

CHAPTER III

AMENDMENTS TO THE ELECTRICITY (SUPPLY) ACT, 1948

54 of 1948.

7. In the Electricity (Supply) Act, 1948 (hereafter in this Chapter referred to as the Supply Act), in section 2, in clause (12), for the word "distribution", the words "distribution or transmission of energy" shall be substituted.

Amendment
of section
2.

8. For section 41 of the Supply Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 41.

"41. (1) Where the Board or a Generating Company considers it necessary to use for any of its purposes any transmission lines or main transmission lines of a licensee, the Board or the Generating Company shall have power to use such lines to the extent to which the capacity thereof is or thereafter remains surplus to the requirements of the licensee for the transmission of electricity, for such time and upon such terms as may be agreed with a licensee and on payment of charges calculated in accordance with the provisions of the Fifth Schedule.

Use of
transmission
lines.

(2) A transmission licensee may enter into an agreement with any Board, Generating Company, bulk licensee, supply licensee or any other transmission licensee for the transmission or supply of electricity."

9. In section 55 of the Supply Act,—

Amendment
of section
55.

(a) in sub-section (1), for the words "Every licensee shall comply with", the words "Every licensee or transmission licensee for intra-State transmission shall comply with" shall be substituted;

(b) in sub-section (2), for the words "Every licensee or Generating Company", the words "Every licensee, transmission licensee or Generating Company" shall be substituted;

(c) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) The Central Government in the case of Regional Load Despatch Centres and the State Government in the case of load despatch centres at the State level, may, by notification, specify the fees and charges to be paid to a person to whom the load despatch functions are entrusted by the Central Government or the State Government, as the case may be."

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,

Sachivalaya, Gandhinagar, 5th August, 1997.

No. RP-19-97-Ord-7/41/E.—The following ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 25th January, 1997 is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 24th January, 1997/Magha 4, 1918 (Saka)

**THE INDUSTRIAL RECONSTRUCTION BANK (TRANSFER OF
 UNDERTAKINGS AND REPEAL) ORDINANCE, 1997**

(No. 7 of 1997)

(24th January, 1997)

Promulgated by the President in the Forty-seventh Year of the
 Republic of India.

An Ordinance to provide for the transfer and vesting of the undertakings of the Industrial Reconstruction Bank of India to and in the Company to be formed and registered as a Company under the Companies Act, 1956, and for matters connected therewith or incidental thereto and also to repeal the Industrial Reconstruction Bank of India Act, 1984.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Industrial Reconstruction Bank (Transfer of Undertakings and Repeal) Ordinance, 1997.

Short title
 and com-
 mencement.

(2) It shall come into force at once.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(a) "appointed day" means such date as the Central Government may, by notification in the Official Gazette, appoint under section 3;

(b) "Company" means the Industrial Investment Bank of India Limited to be formed and registered under the Companies Act, 1956;

1 of 1956.

(c) "Reconstruction Bank" means the Industrial Reconstruction Bank of India established under sub-section (1) of section 3 of the Industrial Reconstruction Bank of India Act, 1984.

62 of 1984.

CHAPTER II

TRANSFER AND VESTING OF THE UNDERTAKINGS OF
RECONSTRUCTION BANK IN COMPANY

Under-
takings
of the
Reconstruc-
tion Bank
to vest in
Company.

3. On such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be transferred to, and vest in, the Company the undertakings of Reconstruction Bank.

General
effect of
vesting
of under-
takings in
Company.

4. (1) The Central Government, being the shareholder of the Reconstruction Bank immediately before the appointed day, shall be deemed to be registered, on and from the appointed day, as a shareholder of the Company.

(2) The undertakings of the Reconstruction Bank which are transferred to, and which vest in, the Company under section 3 shall be deemed to include all business, assets, rights, powers, authorities and privileges and all properties, movable and immovable, real and personal, corporeal and incorporeal, in possession or reservation, present or contingent of whatever nature and wheresoever situate including lands, buildings, vehicles, cash balances, deposits, foreign currencies, disclosed and undisclosed reserves, reserve fund, special reserve fund, benevolent reserve fund, any other fund, stocks, investments, shares, bonds, debentures, security, management of any industrial concern, loans, advances and guarantees given to industrial concerns, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of the Reconstruction Bank in relation to its undertakings, within or without India, all books of accounts, registers, records and documents relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind within or without India then subsisting of the Reconstruction Bank in relation to its undertakings.

(3) All contracts, deeds, bonds, guarantees, powers of attorney, other instruments and working arrangements subsisting immediately before the appointed day and affecting the Reconstruction Bank shall cease to have effect or to be enforceable against the Reconstruction Bank and shall be of as full force and effect against or in favour of the Company in which the undertakings of the Reconstruction Bank have vested by virtue of this Ordinance and enforceable as fully and effectually as if instead of the Reconstruction Bank, the Company had been named therein or had been a party thereto.

(4) Any proceeding or cause of action pending or existing immediately before the appointed day by or against the Reconstruction Bank in relation to its undertakings may, as from the appointed day, be continued and enforced by or against the Company in which the undertakings of the Reconstruction Bank have vested by virtue of this Ordinance as it might have been enforced by or against the Reconstruction Bank if this Ordinance had not been promulgated and shall cease to be enforceable by or against the Reconstruction Bank.

5. (1) Every officer or other employee of the Reconstruction Bank (except a Director of the Board or the Chairman and Managing Director) serving in the employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertakings which have vested in the Company by virtue of this Ordinance, become, as from the appointed day, an officer or, as the case may be, other employee of the Company and shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, leave fare concession, welfare scheme, medical benefit scheme, insurance, provident fund, other funds, retirement, voluntary retirement, gratuity and other benefits as he would have held under the Reconstruction Bank if its undertakings had not vested in the Company and shall continue to do so as an officer or, as the case may be, other employee of the Company or until the expiry of a period of six months from the appointed day if such officer or other employee opts not to continue to be the officer or other employee of the Company within such period.

Provisions
in respect
of officers
and other
employees
of Recon-
struction
Bank

(2) Where an officer or other employee of the Reconstruction Bank opts under subsection (1) not to be in employment or service of the Company, such officer or other employee shall be deemed to have resigned.

14 of 1947.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of the Reconstruction Bank to the Company shall not entitle such officer or other employee to any compensation under this Ordinance or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(4) The officers and other employees who have retired before the appointed day from the service of the Reconstruction Bank and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the Company.

(5) The trust of the provident fund or the gratuity fund of the Reconstruction Bank and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the Company as was being done hitherto in the Reconstruction Bank and any tax exemption granted to the provident fund or the gratuity fund would continue to be applied to the Company.

1 of 1956.

(6) Notwithstanding anything contained in this Ordinance or in the Companies Act, 1956 or in any other law for the time being in force or in the regulations of the Reconstruction Bank, no Director of the Board, Chairman and Managing Director or any other person entitled to manage the whole or substantial part of the business and affairs of the Reconstruction Bank shall be entitled to any compensation against the Reconstruction Bank or the Company for the loss of office or for the premature termination of any contract of management entered into by him with the Reconstruction Bank.

CHAPTER III

MISCELLANEOUS

Conces-
sion, etc.
to be
deemed to
have been
granted
to
Company.

6. With effect from the appointed day, all fiscal and other concessions, licences, benefits, privileges and exemptions granted to the Reconstruction Bank in connection with the affairs and business of the Reconstruction Bank under any law for the time being in force shall be deemed to have been granted to the Company.

Tax
exemption
or benefit
to continue
to have
effect.

7. (1) Notwithstanding anything contained in the Income-tax Act, 1961 or any other enactment for the time being in force relating to tax on income, profits or gains, the Company shall not be liable to pay income-tax or any other tax for a period of five years computed from the appointed day in respect of any income, profits or gains derived, or any amount received by the Company. 43 of 1961.

(2) The transfer and vesting of the undertakings or any part thereof in terms of section 3 shall not be construed as a transfer within the meaning of the Income-tax Act, 1961 for the purposes of capital gains. 43 of 1961.

Guarantee
to be
operative.

8. Any guarantee given for or in favour of the Reconstruction Bank with respect to any loan, lease finance or other assistance shall continue to be operative in relation to the Company.

Arrange-
ment with
Company
on appoint-
ment of
directors to
prevail.

9. (1) Where any arrangement entered into by the company with an industrial or other concern provides for the appointment by the company of one or more directors of such concern, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956 or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to such concern, and any provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the company in pursuance of the arrangement as aforesaid. 1 of 1956.

(2) Any director appointed in pursuance of sub-section (1) shall—

(a) hold office during the pleasure of the company and may be removed or substituted by any person by order in writing by the company;

(b) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(c) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.

Act 18 of
1891 to
apply to
the books
of
Company.

10. The Company shall be deemed to be a bank for the purposes of the Bankers' Books Evidence Act, 1891.

2 of 1882.
4 of 1938.
10 of 1949.

11. Notwithstanding anything contained in any other law for the time being in force, the shares, bonds and debentures of the Company shall be deemed to be approved securities for the purposes of the Indian Trusts Act, 1882, the Insurance Act, 1938 and the Banking Regulation Act, 1949.

Shares, bonds and debentures to be deemed to be approved securities.

12. In every Act, rule or regulation in force on the appointed day,—

(a) for the words "Industrial Reconstruction Bank of India"; wherever they occur, the words "Industrial Investment Bank of India Limited" shall be substituted;

(b) for the words "Reconstruction Bank", wherever they occur, the words "Industrial Investment Bank" shall be substituted.

Substitution in Acts, rules or regulations of company in place of the Reconstruction Bank.

62 of 1984.

13. (1) On the appointed day, the Industrial Reconstruction Bank of India Act, 1984 shall stand repealed.

Repeal and saving of Act 62 of 1984.

62 of 1984.

(2) Notwithstanding the repeal of the Industrial Reconstruction Bank of India Act, 1984,—

(a) the Company shall, so far as may be, comply with the provisions of Chapter VII of the Act so repealed for any of the purposes related to the annual accounts and audit of the Reconstruction Bank;

(b) the provisions of Chapter VIII of the Act so repealed will continue to be applicable in respect of the arrangements entered into by the Reconstruction Bank with an industrial concern under section 18 thereof upto the appointed day and the Company will be entitled to act upon and enforce the same as fully and effectually as if this Ordinance had not been promulgated.

CHAPTER IV

AMENDMENT TO THE INDUSTRIAL RECONSTRUCTION BANK OF INDIA ACT, 1984

14. In the Industrial Reconstruction Bank of India Act, 1984 after section 4 the following section shall be inserted, namely:—

Insertion of new section 4A.

"4A. (1) The Central Government may reduce share capital of the Reconstruction Bank by,—

Transitional provisions regarding adjustment of capital of the Reconstruction Bank.

(a) extinguishing or reducing the liability of any of its equity shares;

(b) either with or without extinguishing or reducing liability on any of its equity shares, cancelling any paid up share capital which is lost, or is unrepresented by available assets; or

(c) either with or without extinguishing or reducing liability on any of its equity shares, paying of any paid up share capital which is in excess of the wants of the Reconstruction Bank.

(2) The Central Government may at any time, by notification in the Official Gazette, convert such number of equity shares held by it, as it may decide into redeemable preference shares.

(3) The redeemable preference shares referred to in sub-section (2) shall carry such fixed rates of dividend as the Central Government may specify at the time of such conversion."

SHANKER DAYAL SHARMA,

President.

K. L. MOHANPURIA,

Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,

Sachivalaya, Gandhinagar, 8th September, 1997.

No. RP-14-97-Ord.-11/42/E.—The following ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 25th January, 1997 is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 25th January, 1997/Magha 5 1918 (Saka)

THE TELECOM REGULATORY AUTHORITY OF INDIA ORDINANCE, 1997
(No. 11 of 1997) (24th January, 1997)

Promulgated by the President in the Forty-seventh Year of the
Republic of India

An Ordinance to provide for the establishment of the Telecom Regulatory
Authority of India to regulate the telecommunication services, and for matters
connected therewith or incidental thereto.

WHEREAS the Telecom Regulatory Authority of India Bill, 1996 was introduced
in the House of the People but has not been passed;

AND WHEREAS the Parliament is not in session and the President is satisfied that
circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-

CHAPTER I

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Ordinance may be called the Telecom Regulatory Authority of India Ordinance, 1997.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. (1) In this Ordinance, unless the context otherwise requires,-

(a) "appointed date" means the date with effect from which the Authority is established under sub-section (1) of section 3;

(b) "Authority" means the Telecom Regulatory Authority of India established under sub-section (1) of section 3;

(c) "Chairperson" means the Chairperson of the Authority appointed under sub-section (3) of section 3;

(d) "Fund" means the Fund constituted under sub-section (1) of section 22;

(e) "licensee" means any person licensed under sub-section (1) of section 4 of the Indian Telegraph Act, 1885 for providing specified public telecommunication services; 13 of 1885.

(f) "member" means a member of the Authority appointed under sub-section (3) of section 3 and includes the Chairperson and the Vice-Chairperson;

(g) "notification" means a notification published in the Official Gazette;

(h) "prescribed" means prescribed by rules made under this Ordinance;

(i) "regulations" means regulations made by the Authority under this Ordinance;

(j) "service provider" means the Government and includes a licensee;

(k) "telecommunication service" means service of any description (including electronic mail, voice mail, data services, audio tex services, video tex services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electro-magnetic means but shall not include broadcasting services.

13 of 1885. (2) Words and expressions used and not defined in this Ordinance but defined in the Indian Telegraph Act, 1885 or the Indian Wireless Telegraphy Act, 1933, shall have the meanings respectively assigned to them in those Acts.

17 of 1933.

(3) Any reference in this Ordinance to a law which is not in force in the State of Jammu and Kashmir shall in relation to that State be construed as a reference to the corresponding law, if any, in that State.

CHAPTER II

TELECOM REGULATORY AUTHORITY OF INDIA

3. (1) With effect from such date as the Central Government may, by notification appoint, there shall be established, for the purposes of this Ordinance, an Authority to be called the Telecom Regulatory Authority of India.

Establishment and incorporation of Authority.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The Authority shall consist of a Chairperson, and not less than two, but not exceeding four members, to be appointed by the Central Government.

(4) The head office of the Authority shall be at New Delhi.

4. (1) The Chairperson shall be a person who is or has been a Judge of the Supreme Court or who is or has been the Chief Justice of a High Court.

Qualifications for appointment of Chairperson and other members.

(2) A member shall be a person,--

(a) who has held the post of Secretary or Additional Secretary, or the posts of Additional Secretary and Secretary to the Government of India or any equivalent post in the Central Government or the State Government for a period of three years; or

(b) who has special knowledge of law or consumer affairs.

5. (1) Before appointing any person as the Chairperson or member, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such member.

Term of office, conditions of service, etc. of Chairperson and other members.

(2) The Chairperson shall hold office for a term of five years from the date on which he enters upon his office.

(3) A member shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

(4) The employee of the Government on his selection as member shall have to retire from service before joining as a member.

(5) The salary and allowances payable to and the other terms and conditions of service of the Chairperson and other members shall be such as may be prescribed.

(6) The salary, allowances and other conditions of service of the Chairperson or of a member shall not be varied to his disadvantage after appointment.

(7) Notwithstanding anything contained in sub-section (2) or sub-section (3), a member may-

(a) relinquish his office by giving in writing to the Central Government notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 7.

(8) The Chairperson or any other member ceasing to hold office as such, shall -

(a) be ineligible for further employment under the Central Government or any State Government; or

(b) not accept any commercial employment, for a period of two years from the date he ceases to hold such office.

(9) A vacancy caused to the office of the Chairperson or any other member shall be filled up within a period of two months from the date on which such vacancy occurs.

Explanation.--For the purposes of this section, "commercial employment" means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in any field and includes also a director of a company or partner of a firm and it also includes setting up practice either independently or as partner of a firm or as an adviser or a consultant.

Power of
Chairperson
and Vice-
Chairperson.

6. (1) The Chairperson shall have powers of general superintendence and directions in the conduct of the affairs of the Authority and he shall, in addition to presiding over the meetings of the Authority, exercise and discharge such powers and functions of the Authority and shall discharge such other powers and functions as may be prescribed.

(2) The Central Government may appoint one of the members to be a Vice-Chairperson of the Authority who shall exercise and discharge such powers and functions of the Chairperson as may be prescribed or as may be delegated to him by the Authority.

Removal of
members
from office
in certain
circum-
stances.

7. The Central Government may remove from office any member, who--

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

8. (1) The Authority shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

Meetings.

(2) The Chairperson or, if for any reason, he is unable to attend a meeting of the Authority, Vice-Chairperson and in his absence, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority vote of the members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding, shall have a second or casting vote.

(4) The Authority may make regulations for the transaction of business at its meetings.

9. No act or proceeding of the Authority shall be invalid merely by reason of:-

Vacancies,
etc. not to
invalidate
proceedings
of the
Authority.

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

10. (1) The Authority may appoint officers and such other employees as it considers necessary for the efficient discharge of its functions under this Ordinance.

Officers and
other
employees
of
Authority.

(2) The salary and allowances payable to and the other conditions of service of the officers and other employees of the Authority appointed under sub-section (1) shall be such as may be determined by regulations.

CHAPTER III

POWERS AND FUNCTIONS OF THE AUTHORITY

13 of 1885.

11. (1) Notwithstanding anything contained in the Indian Telegraph Act, 1885, the functions of the Authority shall be to-

Functions
of
Authority.

(a) recommend the need and timing for introduction of new service provider;

(b) recommend the terms and conditions of licence to a service provider;

(c) ensure technical compatibility and effective inter-relationship between different service providers;

(d) regulate arrangement amongst service providers of sharing their revenue derived from providing telecommunication services;

(e) ensure compliance of terms and conditions of licence;

(f) recommend revocation of licence for non-compliance of terms and conditions of licence;

(g) lay down and ensure the time period for providing local and long distance circuits of telecommunication between different service providers;

(h) facilitate competition and promote efficiency in the operation of telecommunication services so as to facilitate growth in such services;

(i) protect the interest of the consumers of telecommunication services;

(j) settle disputes between service providers;

(k) render advice to the Central Government in the matters relating to the development of telecommunication technology and any other matter relating to telecommunication industry in general;

(l) levy fees and other charges at such rates and in respect of such services as may be determined by regulations;

(m) ensure effective compliance of universal service obligations;

(n) perform such other functions including such administrative and financial functions as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of this Ordinance.

(2) Notwithstanding anything contained in the Indian Telegraph Act, 1885, the Authority may, from time to time, by order, notify in the Official Gazette the rates at which the telecommunication services within India and outside India shall be provided under this Ordinance including the rates at which messages shall be transmitted to any country outside India:

Provided that the Authority may notify different rates for different persons or class of persons for similar telecommunication services and where different rates are fixed as aforesaid the Authority shall record the reasons therefor.

(3) While discharging its functions under sub-section (1), the Authority shall not act against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

(4) The Authority shall ensure transparency while exercising its powers and discharging its functions.

12. (1) Where the Authority considers it expedient so to do, it may, by order in writing -

(a) call upon any service provider at any time to furnish in writing such information or explanation relating to its affairs as the Authority may require; or

(b) appoint one or more persons to make an inquiry in relation to the affairs of any service provider; and

(c) direct any of its officers or employees to inspect the books of account or other documents of any service provider.

(2) Where any inquiry in relation to the affairs of a service provider has been undertaken under sub-section -

(a) every officer of the Government Department, if such service provider is a department of the Government;

(b) every director, manager, secretary or other officer, if such service provider is a company; or

(c) every partner, manager, secretary or other officer, if such service provider is a firm; or

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (b) and (c),

shall be bound to produce before the Authority making the inquiry, all such books of accounts or other documents in his custody or power relating to, or having a bearing on the subject-matter of such inquiry and also to furnish to the Authority with any such statement or information relating thereto, as the case may be, required of him, within such time as may be specified.

(3) Every service provider shall maintain such books of account or other documents as may be prescribed.

(4) The Authority shall have the power to issue such directions to service providers as it may consider necessary for proper functioning by service providers.

13. The Authority may, for the discharge of its functions under sub-section (1) of section 11, issue such directions from time to time to the service providers, as it may consider necessary.

CHAPTER IV

SETTLEMENT OF DISPUTES

14. (1) If a dispute arises, in respect of matters referred to in sub-section (2), among service providers or between service providers and a group of consumers, such disputes shall be adjudicated by a bench constituted by the Chairperson and such bench shall consist of two members:

Powers of Authority to call for information, conduct investigations, etc.

Power of Authority to issue directions.

Authority to settle disputes.

Provided that if the members of the bench differ on any point or points they shall state the point or points on which they differ and refer the same to a third member for hearing on such point or points and such point or points shall be decided according to the opinion of that member.

(2) The bench constituted under sub-section (1) shall exercise, on and from the appointed date all such jurisdiction, powers and authority as were exercisable immediately before that date by any civil court on any matter relating to--

- (i) technical compatibility and inter-connections between service providers;
- (ii) revenue sharing arrangements between different service providers;
- (iii) quality of telecommunication services and interest of consumers;

Provided that nothing in this sub-section shall apply in respect of matters relating to-

(a) the monopolistic trade practice, restrictive trade practice and unfair trade practice which are subject to the jurisdiction of the Monopolies and Restrictive Trade Practices Commission established under sub-section (1) of section 5 of the Monopolies and Restrictive Trade Practices Act, 1969;

54 of 1969.

(b) the complaint of an individual consumer maintainable before a Consumer Disputes Redressal Forum or a Consumer Disputes Redressal Commission or the National Consumer Disputes Redressal Commission established under section 9 of the Consumer Protection Act, 1986;

68 of 1986.

(c) dispute between telegraph authority and any other person referred to in sub-section (1) of section 7B of the Indian Telegraph Act, 1885.

13 of 1885.

Filing of
application
to Authority
and proce-
dure for
passing
order by it.

15. (1) An aggrieved person may make an application in respect of matters referred to in sub-section (2) of section 14 within such period as may be prescribed.

Explanation.- For the purposes of this sub-section, the expression "aggrieved person" means--

(i) any service provider who has a dispute in respect of matters referred to in clauses (i) and (ii) of sub-section (2) of section 14;

(ii) where any loss or damage is caused to a group of consumers, any member representing such group of consumers.

(2) On receipt of an application made under sub-section (1), the Authority may, after giving the parties an opportunity of being heard, pass such orders as it thinks fit preferably within a period of six months from the date of filing of such application and shall record reasons in writing if final order cannot be passed within the said period.

(3) While arriving at a decision, the Authority shall record in writing the reasons for such decision.

(4) Every decision of the Authority shall be published in the annual report of the Authority.

(5) The orders and directions of the Authority shall be binding on the service providers, Government and all other persons concerned.

16. (1) The Authority shall be guided by the principles of natural justice.

Procedure
and powers
of
Authority.

5 of 1908

(2) The Authority shall have, for the purpose of discharging their functions under this Chapter, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:--

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

(e) reviewing its decisions;

(f) dismissing an application for default or deciding it ex-parte;

(g) setting aside any order of dismissal of any application for default or any order passed by it ex parte;

(h) any other matter which may be prescribed.

45 of 1860.

2 of 1974.

(3) Every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code and the Authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

17. The applicant may either appear in person or authorise one or more legal practitioners or any of its officers to present his or its case before the Authority.

Right to
legal repre-
sentation.

18. Any person aggrieved by any decision or order of the Authority may file an appeal to the High Court within thirty days from the date of communication of the decision or order of the Authority to him:

Appeal to
High Court.

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

Orders
passed by
Authority or
High Court
to be exe-
cutable as
a decree.

19. Every order made by the Authority under this Ordinance or the order made by the High Court in any appeal against any order of the Authority shall, on a certificate issued by any officer of the Authority or the Registrar of the High Court, as the case may be, be deemed to be decree of the civil court and shall be executable in the same manner as a decree of that court.

Penalty for
wilful
failure to
comply with
orders of
Authority or
High Court.

20. If any person wilfully fails to comply with the orders of the Authority or any order of the High Court, as the case may be, he shall be punishable with fine which may extend to one lakh rupees and in case of a second or subsequent offence with fine which may extend to two lakh rupees and in the case of continuing contravention with additional fine which may extend to two lakh rupees for every day during which the default continues.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

Grants by
Central
Govern-
ment.

21. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as are required to pay salaries and allowances payable to the Chairperson and the members and the administrative expenses including the salaries, allowances and pension payable to or in respect of officers and other employees of the Authority.

Fund.

22. (1) There shall be constituted a Fund to be called the Telecom Regulatory Authority of India General Fund and there shall be credited thereto--

(a) all grants, fees and charges received by the Authority under this Ordinance; and

(b) all sums received by the Authority from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting -

(a) the salaries and allowances payable to the Chairperson and members and the administrative expenses including the salaries, allowances and pension payable to or in respect of officers and other employees of the Authority; and

(b) the expenses on objects and for purposes authorised by this Ordinance.

Accounts
and audit.

23. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such auditor shall be payable by the Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

24. (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the telecommunication services, as the Central Government, from time to time, require.

Furnishing
of returns,
etc. to
Central
Govern-
ment.

(2) The Authority shall prepare once every year in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER VI

MISCELLANEOUS

25. (1) The Central Government may, from time to time, issue to the Authority such directions as it may think necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

Power of
the Central
Government
to issue
directions.

(2) Without prejudice to the foregoing provisions, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(3) The decision of the Central Government whether a question is one of policy or not shall be final.

Members,
officers and
employees
of Authority
to be public
servants.

26. All members, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Ordinance to be public servants within the meaning of section 21 of the Indian Penal Code.

Bar of
jurisdiction.

27. No civil court shall have jurisdiction in respect of any matter which the Authority is empowered by or under this Ordinance to determine.

Protection of
action taken
in good
faith.

28. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or any officer of Central Government or any member, officer or other employees of the Authority for anything which is in good faith done or intended to be done under this Ordinance or the rules or regulations made thereunder.

Penalty for
contraven-
tion of
directions
of
Authority.

29. If a person violates directions of the Authority, such person shall be punishable with fine which may extend to one lakh rupees and in case of second or subsequent offence with fine which may extend to two lakh rupees and in the case of continuing contravention with additional fine which may extend to two lakh rupees for every day during which the default continues.

Offences by
companies.

30. (1) Where an offence under this Ordinance has been committed by a company, every person who at the time offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Ordinance if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-- For the purposes of this section, -

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

31. (1) Where an offence under this Ordinance has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Offences by
Government
Depart-
ments.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a Department of Government, and it is proved that the offence has been committed with consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

27 of 1957.
43 of 1961.

32. Notwithstanding anything contained in the Wealth-tax Act, 1957, the Income-tax Act, 1961, or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Authority shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

Exemption
from tax on
wealth and
income.

33. The Authority may, by general or special order in writing, delegate to any member, officer of the Authority or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Ordinance (except the power to settle dispute under Chapter IV and to make regulation under section 36) as it may deem necessary.

Delegation.

34. (1) No court shall take cognizance of any offence punishable under this Ordinance or the rules or regulations made thereunder save on a complaint made by the Authority.

Cognizance
of offences.

(2) No court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate of the first class shall try any offence punishable under this Ordinance.

35. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Ordinance.

Power to
make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the salary and allowances payable to and the other conditions of service of the Chairperson and members under sub-section (5) of section 5;

(b) the powers and functions of the Chairperson under sub-section (1) of section 6;

(c) the category of books of account or other documents which are required to be maintained under sub-section (3) of section 12;

(d) the period within which an application is to be made under sub-section (1) of section 15;

(e) the manner in which the accounts of the Authority shall be maintained under sub-section (1) of section 23;

(f) the time within which and the form and manner in which returns and report are to be made to the Central Government under sub-sections (1) and (2) of section 24;

(g) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

Power to
make
regulations.

36. (1) The Authority may, by notification, make regulations consistent with this Ordinance and the rules made thereunder to carry out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:--

(a) the times and places of meetings of the Authority and the procedure to be followed at such meetings under sub-section (1) of section 8, including quorum necessary for the transaction of business;

(b) the transaction of business at the meetings of the Authority under sub-section (4) of section 8;

(c) the salaries and allowances payable to and the other conditions of service of officers and other employees of the Authority under sub-section (2) of section 10;

(d) levy of fees and other charges under clause (1) of sub-section (1) of section 11.

Rules and
regulations
to be laid
before
Parliament.

37. Every rule and every regulation made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application
of certain
laws.

38. The provisions of this Ordinance shall be in addition to the provisions of the Indian Telegraph Act, 1885 and the Indian Wireless Telegraphy Act, 1933 and, in particular, nothing in this Ordinance shall affect any jurisdiction, powers and functions required to be exercised or performed by the Telegraph Authority in relation to any area falling within the jurisdiction of such Authority.

13 of 1885.

17 of 1933.

39.(1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Ordinance as may appear to be necessary for removing the difficulty:

Power to
remove
difficulties.

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Ordinance.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI.,
Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

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**Separate paging is given to this Part in order that it
may be filed as a separate compilation.**

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,

Sachivalaya, Gandhinagar, 8th September, 1997.

No. RP-16-97-Ord-9/43/E.—The following ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 25th January, 1997 is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 24th January, 1997/Magha 4, 1918, (Saka)

THE NATIONAL HIGHWAYS LAWS (AMENDMENT) ORDINANCE, 1997
(No. 9 of 1997) (24th January, 1997)

Promulgated by the President in the Forty-seventh Year of the Republic of India.

An Ordinance further to amend the National Highways Act, 1956 and the National Highways Authority of India Act, 1988.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the National Highways Laws (Amendment) Ordinance, 1997.

(2) It shall come into force at once.

Short Title
and com-
mencement.

CHAPTER II

AMENDMENT OF THE NATIONAL HIGHWAYS ACT, 1956

Amendment of
section 2.

2. In section 2 of the National Highways Act, 1956 (hereinafter referred to as the National Highways Act), in sub-section (1), the words "excepts such parts thereof as are situated within any municipal area" shall be omitted.

48 of 1956.

Substitution of
new sections for
section 3.

3. For section 3 of the National Highways Act, the following sections shall be substituted, namely:—

Definitions.

"3. In this Act, unless the context otherwise requires,—

(a) "competent authority" means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority for such area as may be specified in the notification;

(b) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to any thing attached to the earth.

Power to
acquire land,
etc.

3A. (1) Where the Central Government is satisfied that for a public purpose any land is required for the building, maintenance, management or operation of a national highway or part thereof, it may, by notification in the Official Gazette, declare its intention to acquire such land,

(2) Every notification under sub-section (1) shall give a brief description of the land.

Power to enter
for survey, etc.

(3) The competent authority shall cause the substance of the notification to be published in two local newspapers, one of which will be in a vernacular language.

3B. On the issue of a notification under sub-section (1) of section 3A, it shall be lawful for any person, authorised by the Central Government in this behalf, to—

(a) make any inspection, survey, measurement, valuation or enquiry;

(b) take levels;

(c) dig or bore into sub-soil;

(d) set out boundaries and intended lines of work;

(e) mark such levels, boundaries and lines by placing marks and cutting trenches; or

(f) do such other acts or things as may be laid down by rules made in this behalf by that Government.

Hearing of
objections.

3C. (1) Any person interested in the land may, within twenty-one days from the date of publication of the notification under sub-section (1) of section 3A, object to the use of the land for the purpose or purposes mentioned in that sub-section.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the competent authority thinks necessary, by order, either allow or disallow the objections.

Explanation.—For the purposes of this sub-section, "legal practitioner" has the same meaning as in clause (i) of sub-section (1) of section 2 of the Advocates Act, 1961.

25 of 1961.

(3) Any order made by the competent authority under sub-section (2) shall be final.

3D. (1) Where no objection under sub-section (1) of section 3C has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objection under sub-section (2) of that section, the competent authority shall, as soon as may be, submit a report accordingly to the Central Government and on receipt of such report, the Central Government shall declare, by notification in the Official Gazette, that the land should be acquired for the purpose or purposes mentioned in sub-section (1) of section 3A.

Declaration of acquisition.

(2) On the publication of the declaration under sub-section (1), the land shall vest absolutely in the Central Government free from all encumbrances.

(3) Where in respect of any land, a notification has been published under sub-section (1) of section 3A for its acquisition but no declaration under sub-section (1) has been published within a period of one year from the date of publication of that notification, the said notification shall cease to have any effect:

Provided that in computing the said period of one year, the period or periods during which any action or proceedings to be taken in pursuance of the notification issued under sub-section (1) of section 3A is stayed by an order of a court shall be excluded.

(4) A declaration made by the Central Government under sub-section (1) shall not be called in question in any court or by any other authority.

3E. (1) Where any land has vested in the Central Government under sub-section (2) of section 3D, and the amount determined by the competent authority under section 3G with respect to such land has been deposited under sub-section (1) of section 3H, with the competent authority by the Central Government, the competent authority may by notice in writing direct the owner as well as any other person who may be in possession of such land to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within sixty days of the service of the notice.

Power to take possession.

(2) If any person refuses or fails to comply with any direction made under sub-section (1), the competent authority shall apply—

(a) in the case of any land situated in any area falling within the metropolitan area, to the Commissioner of Police;

(b) in case of any land situated in any area other than the area referred to in clause (a), to the Collector of a District;

and such Commissioner or Collector, as the case may be, shall enforce the surrender of the land, to the competent authority or to the person duly authorised by it.

3F. Where the land has vested in the Central Government under section 3D, it shall be lawful for any person authorised by the Central Government in this behalf, to enter and do other act necessary upon the land for carrying out the building, maintenance, management or operation of a national highway or a part thereof, or any other work connected therewith.

Right to enter into the land where land has vested in the Central Government.

3G. (1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

Determination of amount payable as compensation.

(2) Where the right of user or any right in the nature of an easement on, any land is acquired under this act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent. of the amount determined under sub-section (1), for that land.

(3) Before proceeding to determine the amount under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two local

newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired.

(4) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 3C, before the competent authority, at a time and place and to state the nature of their respective interest in such land.

(5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.

(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 shall apply to every arbitration under this Act.

26 of 1996.

(7) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration—

(a) the market value of the land on the date of publication of the notification under section 3A;

(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

Deposit and
payment of
amount.

3H. (1) The amount determined under section 3G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under subsection (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

(5) Where the amount determined under section 3G by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine per cent. per annum on such excess amount from the date of taking possession under section 3D till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by the Government, with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.

5 of 1908.

3I. The competent authority shall have, for the purposes of this Act, all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

Competent authority to have certain powers of civil court.

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing commission for examination of witnesses.

3J. Nothing in the Land Acquisition Act, 1894 shall apply to an acquisition under this Act."

Land Acquisition Act 1 of 1894 not to apply.

4. Section 8 of the National Highways Act shall be omitted.

Omission of section 8.

5. In section 9 of the National Highways Act, in sub-section (2), after clause (a), the following clause shall be inserted, namely:—

Amendment of section 9.

"(aa) the manner in which the amount shall be deposited with the competent authority under sub-sections (1) and (6) of section 3H;".

CHAPTER III

AMENDMENT OF THE NATIONAL HIGHWAYS AUTHORITY OF INDIA ACT, 1988

68 of 1988.

6. For section 13 of the National Highways Authority of India Act, 1988 (hereinafter referred to as the National Highways Authority Act), the following section shall be substituted, namely:—

Substitution of new section for section 13.

48 of 1956.

"13. Any land required by the Authority for discharging its functions under this Act shall be deemed to be land needed for a public purpose and such land may be acquired for the Authority under the provisions of the National Highways Act, 1956."

Compulsory acquisition of land for the Authority.

7. In section 16 of the National Highways Authority Act, in sub-section (2), for clause (h), the following clause shall be substituted, namely:—

Amendment of section 16.

"(h) engage, or entrust any of its functions to, any person on such terms and conditions as may be prescribed;".

8. For section 17 of the National Highways Authority Act, the following section shall be substituted, namely:—

Substitution of new section for section 17.

"17. The Central Government may, after due appropriation made by Parliament, by law in this behalf,—

Additional capital and grants to the Authority by the Central Government.

(a) provide any capital that may be required by the Authority for the discharge of its functions under this Act or for any purpose connected therewith on such terms and conditions as that Government may determine;

(b) pay to the Authority, on such terms and conditions as the Central Government may determine, by way of loans or grants such sums of money as that Government may consider necessary for the efficient discharge by the Authority of its functions under this Act."

9. In section 34 of the National Highways Authority Act, in sub-section (2), after clause (d), the following clause shall be inserted, namely:—

Amendment of section 34.

"(dd) the terms and conditions subject to which the functions of the Authority may be entrusted to any person under clause (h) of sub-section (2) of section 16;".

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, 6th October, 1997.

No. RP/33/97/Act 15/96/48/E.—The following Act of Parliament is-re-published
for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)
New Delhi, the 31st July, 1996 / Shravan 9, 1918 (Saka)

The following Act of Parliament received the assent of the President on the 31st
July, 1996 and is hereby published for general information :

**THE CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION
OF SMUGGLING ACTIVITIES (AMENDMENT) ACT, 1996**

(Act No. 15 of 1996)

AN ACT

(31st July, 1996)

*further to amend the Conservation of Foreign Exchange and Prevention of
Smuggling Activities Act, 1974.*

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as
follows :—

1. This Act may be called the Conservation of Foreign Exchange and Prevention
of Smuggling Activities (Amendment) Act, 1996. Short title.

amendment
of section 9
of Act 52 of
1974.

2. In the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, in section 9, in sub-section (1), for the figures, letters and words "31st day of July, 1996", the figures, letters and words "31st day July, 1999" shall be substituted.

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
Sachivalaya, Gandhinagar, 6th October, 1997.

No. RP/37/97/Act 28/96/50/E.—The following Act of Parliament is re-published
for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 20th August, 1996 / Shravan 29, 1918 (Saka)

The following Act of Parliament received the assent of the President on the 19th
August, 1996 and is hereby published for general information :

THE BUILDING AND OTHER CONSTRUCTION WORKERS' WELFARE CESS ACT, 1996

(Act No. 28 of 1996)

(19th August, 1996)

AN ACT

*to provide for the levy and collection of a cess on the cost of construction incurred by
employers with a view to augmenting the resources of the Building and Other Con-
struction Workers' Welfare Boards constituted under the Building and Other Con-
struction Workers (Regulation of Employment and Conditions of Service) Act, 1996.*

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as
follows:—

1. (1) This Act may be called the Building and Other Construction Workers' Welfare
Cess Act, 1996.

(2) It extends to the whole of India:

(3) It shall be deemed to have come into force on the 3rd day of November, 1995.

2. In this Act, unless the context otherwise requires,—

(a) "Board" means a Building and Other Construction Workers' Welfare Board
constituted by a State Government under sub-section (1) of section 18 of the Build-
ing and Other Construction Workers (Regulation of Employment and Conditions of
Service) Act, 1996;

(b) "Fund" means the Building and Other Construction Workers' Welfare Fund
constituted by a Board;

(c) "prescribed" means prescribed by rules made under this Act;

Short title, extent and
commencement.

Definitions.

(d) words and expressions used herein but not defined and defined in the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 shall have the meanings respectively assigned to them in that Act.

Levy and collection
of cess.

3. (1) There shall be levied and collected a cess for the purposes of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, at such rate not exceeding two per cent. but not less than one per cent. of the cost of construction incurred by an employer, as the Central Government may, by notification in the Official Gazette, from time to time specify.

(2) The cess levied under sub-section (1) shall be collected from every employer in such manner and at such time, including deduction at source in relation to a building or other construction work of a Government or of a public sector undertaking or advance collection through a local authority where an approval of such building or other construction work by such local authority is required, as may be prescribed.

(3) The proceeds of the cess collected under sub-section (2) shall be paid by the local authority or the State Government collecting the cess to the Board after deducting the cost of collection of such cess not exceeding one per cent. of the amount collected.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), the cess leviable under this Act including payment of such cess in advance may, subject to final assessment to be made, be collected at a uniform rate or rates as may be prescribed on the basis of the quantum of the building or other construction work involved.

Furnishing
returns.

4. (1) Every employer shall furnish such return to such officer or authority, in such manner and at such time as may be prescribed.

(2) If any person carrying on the building or other construction work, liable to pay the cess under section 3, fails to furnish any return under sub-section (1), the officer or the authority shall give a notice requiring such person to furnish such return before such date as may be specified in the notice.

Assessment of cess.

5. (1) The officer or authority to whom or to which the return has been furnished under section 4 shall, after making or causing to be made such inquiry as he or it thinks fit and after satisfying himself or itself that the particulars stated in the return are correct, by order, assess the amount of cess payable by the employer.

(2) If the return has not been furnished to the officer or authority under sub-section (2) of section 4, he or it shall, after making or causing to be made such inquiry as he or it thinks fit, by order, assess the amount of cess payable by the employer.

(3) An order of assessment made under sub-section (1) or sub-section (2) shall specify the date within which the cess shall be paid by the employer.

Power to exempt.

6. Notwithstanding anything contained in this Act, the Central Government may, by notification in the Official Gazette, exempt any employer or class of employers in a State from the payment of cess payable under this Act where such cess is already levied and payable under any corresponding law in force in that State.

7. Any officer or authority of the State Government specially empowered in this behalf by that Government may—

Power of entry.

(a) with such assistance, if any, as he or it may think fit, enter at any reasonable time any place where he or it considers it necessary to enter for carrying out the purposes of this Act including verification of the correctness of any particulars furnished by any employer under section 4;

(b) do within such place anything necessary for the proper discharge of his or its duties under this Act; and

(c) exercise such other powers as may be prescribed.

8. If any employer fails to pay any amount of cess payable under section 3 within the time specified in the order of assessment, such employer shall be liable to pay interest on the amount to be paid at the rate of two per cent. for every month or part of a month comprised in the period from the date on which such payment is due till such amount is actually paid.

Interest payable on delay in payment of cess.

9. If any amount of cess payable by any employer under section 3 is not paid within the date specified in the order of assessment made under section 5, it shall be deemed to be in arrears and the authority prescribed in this behalf may, after making such inquiry as it deems fit, impose on such employer a penalty not exceeding the amount of cess:

Penalty for non-payment of cess within the specified time.

Provided that, before imposing any such penalty, such employer shall be given a reasonable opportunity of being heard and if after such hearing the said authority is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed under this section.

10. Any amount due under this Act (including any interest or penalty) from an employer may be recovered in the same manner as an arrear of land revenue.

Recovery of amount due under the Act.

11. (1) Any employer aggrieved by an order of assessment made under section 5 or by an order imposing penalty made under section 9 may, within such time as may be prescribed, appeal to such appellate authority in such form and in such manner as may be prescribed.

Appeals.

(2) Every appeal preferred under sub-section (1) shall be accompanied by such fees as may be prescribed.

(3) After the receipt of any appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard in the matter, dispose of the appeal as expeditiously as possible.

(4) Every order passed in appeal under this section shall be final and shall not be called in question in any court of law.

12. (1) Whoever, being under an obligation to furnish a return under this Act, furnishes any return knowing, or having reason to believe, the same to be false shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty.

(2) Whoever, being liable to pay cess under this Act, wilfully or intentionally evades or attempts to evade the payment of such cess shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

(3) No court shall take cognizance of an offence punishable under this section save on a complaint made by or under the authority of the Central Government.

13. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

power to make
rules.

14. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which and the time within which the cess shall be collected under sub-section (2) of section 3;

(b) the rate or rates of advance cess leviable under sub-section (4) of section 3;

(c) the particulars of the returns to be furnished, the officer or authority to whom or to which such returns shall be furnished and the manner and time of furnishing such returns under sub-section (1) of section 4;

(d) the powers which may be exercised by the officer or authority under section 7;

(e) the authority which may impose penalty under section 9;

(f) the authority to which an appeal may be filed under sub-section (1) of section 11 and the time within which and the form and manner in which such appeal may be filed;

(g) the fees which shall accompany an appeal under sub-section (2) of section 11; and

(h) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

peal and
ving.

15. (1) The Building and Other Construction Workers' Welfare Cess Third Ordinance, 1996, is hereby repealed.

Ord.
26 of 1996.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
 LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, 6th October, 1997.

No. RP/43/97/Ord. 32/96/49/E.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 31st December, 1996 is republished for general information :—

GOVERNMENT OF INDIA
 MINISTRY OF LAW AND JUSTICE
 (Legislative Department)

New Delhi, the 31st December, 1996/Pausa 10, 1918 (Saka)

THE INCOME-TAX (SECOND AMENDMENT) ORDINANCE, 1996

No. 32 of 1996

Promulgated by the President in the Forty-seventh Year of the
 Republic of India.

An Ordinance further to amend the Income-tax Act, 1961.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action:

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Income-tax (Second Amendment) Ordinance, 1996.

Short title and
 commence-
 ment.

(2) Save as otherwise provided in this Ordinance, sections 4 to 10 shall come into force on the 1st day of January, 1997.

2. In section 54EA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), with effect from the 1st day of October, 1996—

Amendment of
 section 54EA.

(a) in sub-section (1), for the words, brackets, figures and letter "bonds, debentures or units of mutual fund referred to in clause (23D) of section 10," the words, brackets, figures and letter "bonds, debentures, shares of a public company or units of any mutual fund referred to in clause (23D) of section 10," shall be substituted and shall be deemed to have been substituted;

43 of 1961.

(b) for the words "specified bonds or debentures", wherever they occur, the words "specified securities" shall be substituted and shall be deemed to have been substituted.

Amendment of
section 80G.

3. In section 80G of the Income-tax Act, with effect from the 1st day of April, 1997,—

(a) in sub-section (1), in clause (i), after the word, brackets, figures and letters "sub-clause (iiid)", the words, brackets, figures and letters "or sub-clause (iiie)" shall be inserted;

(b) in sub-section (2), in clause (a), after sub-clause (iiid), the following sub-clause shall be inserted, namely:—

"(iiie) the National Illness Assistance Fund; or"

Amendment of
section 158BC.

4. In section 158BC of the Income-tax Act, in clause (a),—

(a) for the words "not being less than fifteen days", the words "not being less than fifteen days but not more than forty-five days" shall be substituted;

(b) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that a person who has furnished a return under this clause shall not be entitled to file a revised return;"

Amendment of
section 158BE.

5. In section 158BE of the Income-tax Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

"(1) The order under section 158BC shall be passed,—

(a) within one year from the end of the month in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed in cases where a search is initiated or books of account or other documents or any assets are requisitioned after the 30th day of June, 1995 but before the 1st day of January, 1997;

(b) within two years from the end of the month in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed in cases where a search is initiated or books of account or other documents or any assets are requisitioned on or after the 1st day of January, 1997.

(2) The period of limitation for completion of block assessment in the case of the other person referred to in section 158BD shall be—

(a) one year from the end of the month in which the notice under this Chapter was served on such other person in respect of search initiated or books of account or other documents or any assets requisitioned after the 30th day of June, 1995 but before the 1st day of January, 1997; and

(b) within two years from the end of the month in which notice under this Chapter was served on such other person in respect of search initiated or books of account or other documents or any assets are requisitioned on or after the 1st day of January, 1997."

Insertion of
new section
158BFA.

Levy of Interest
and penalty in
certain cases.

6. After section 158BF of the Income-tax Act, the following section shall be inserted, namely:—

"158BFA. (1) Where the return of total income including undisclosed income for the block period, required by a notice under clause (a) of section 158BC, is furnished after the expiry of the period specified in such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. of the tax on undisclosed income, determined under clause (c) of section 158BC, for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time specified in the notice, and—

(a) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

(b) where no return has been furnished on the date of completion of assessment under clause (c) of section 158BC.

(2) The Assessing Officer or the Commissioner (Appeals) in the course of any proceedings under this Chapter, may direct that a person shall pay by way of penalty a sum which shall not be less than the amount of tax leviable but which shall not exceed three times the amount of tax so leviable in respect of the undisclosed income determined by the Assessing Officer under clause (c) of section 158BC:

Provided that no order imposing penalty shall be made in respect of a person if—

(i) such person has furnished a return under clause (a) of section 158BC;

(ii) the tax payable on the basis of such return has been paid or, if the assets seized consist of money, the assessee offers the money so seized to be adjusted against the tax payable;

(iii) evidence of tax paid is furnished along with the return; and

(iv) an appeal is not filed against the assessment of that part of income which is shown in the return:

Provided further that the provisions of the preceding proviso shall not apply where the undisclosed income determined by the Assessing Officer is in excess of the income shown in the return and in such cases the penalty shall be imposed on that portion of undisclosed income determined which is in excess of the amount of undisclosed income shown in the return.

(3) No order imposing a penalty under sub-section (2) shall be made,—

(a) unless an assessee has been given a reasonable opportunity of being heard;

(b) by the Assistant Commissioner or Assistant Director, as the case may be, where the amount of penalty exceeds twenty thousand rupees except with the previous approval of the Deputy Commissioner or Deputy Director, as the case may be;

(c) in a case where the assessment is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or Commissioner, whichever period expires later;

(d) in a case where the assessment is the subject matter of revision under section 263, after the expiry of six months from the end of the month in which such order of revision is passed;

(e) in any case other than those mentioned in items (c) and (d), after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

Explanation. In computing the period of limitation for the purpose of this section,—

(i) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129;

(ii) the period during which the immunity granted under section 245H remained in force; and

(iii) the period during which the proceedings under sub-section (2) are stayed by an order or injunction of any court;

shall be excluded.

(4) An Income-tax authority on making an order under sub-section (2) imposing a penalty, unless he is himself an Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer."

Substitution of
new section for
section 158BG.

Authority
competent to
make the block
assessment.

Amendment of
section 246.

Amendment of
section 253.

Insertion of
new section
276CC.

Failure to
furnish return
of income in
search cases.

7. For section 158BG of the Income-tax Act, the following section shall be substituted, namely:—

"158BG. The order of assessment for the block period shall be passed by an Assessing Officer not below the rank of an Assistant Commissioner or an Assistant Director, as the case may be:

Provided that no such order shall be passed without the previous approval of the Deputy Commissioner or the Deputy Director, as the case may be."

8. In section 246 of the Income-tax Act, in sub-section (2), after clause (d), the following clauses shall be inserted, namely:

"(da) an order of assessment made by an Assessing Officer under clause (c) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132 A, on or after the 1st day of January, 1997;

(db) an order imposing a penalty under sub-section (2) of section 158BFA,"

9. In section 253 of the Income-tax Act, in sub-section (1), for clause (b), the following clause shall be substituted, namely:—

"(b) an order passed by an Assessing Officer under clause (c) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995, but before the 1st day of January, 1997; or"

10. After section 276CC of the Income-tax Act, the following section shall be inserted, namely:

"276CCC. If a person wilfully fails to furnish in due time the return of total income which he is required to furnish by notice given under clause (a) of section 158BC, he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to three years and with fine."

SHANKAR DAYAL SHARMA
President

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHI NAGAR.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 14th October, 1997.

No. RP/53/ORD./13 OF 1997/97/58/E:-The following ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 5th June, 1997 is republished for general information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 5th June, 1997/Jyaishta 15, 1919 (Saka)

**THE PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS
(AMENDMENT) ORDINANCE, 1997**

No. 13 OF 1997

Promulgated by the President in the Forty-eighth Year of the
Republic of India.

An Ordinance further to amend the Presidential and Vice-Presidential
Elections Act, 1952.

WHEREAS Parliament is not in session and the President is satisfied that
circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-

Short title and commencement.

1. (1) This Ordinance may be called the Presidential and Vice-Presidential Elections (Amendment) Ordinance, 1997.

(2) It shall come into force at once.

Amendment of section 5B.

2. In section 5B of the Presidential and Vice-Presidential Elections Act, 1952 31 of 1952. (hereinafter referred to as the principal Act), in sub-section (1),-

(i) in clause (a), for the words "ten electors" at both the places, where they occur, the words "fifty electors" shall be substituted;

(ii) in clause (b), for the words "five electors" at both the places, where they occur, the words "twenty electors" shall be substituted.

Amendment of section 5C.

3. In section 5C of the principal Act, in sub-section (1), for the words "two thousand five hundred rupees", the words "fifteen thousand rupees" shall be substituted.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.

Government Central Press, Gandhinagar.



The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it
may be filed as a Separate Compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT,

Sachivalaya, Gandhinagar, 3rd December, 1997.

No. RP/83/Ord. 20/97/E.—The following ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 1st October, 1997 is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 1st October, 1997.

THE LOTTERIES (REGULATION) ORDINANCE, 1997.

(Ordi. 20 of 1997)

(1st October, 1997)

promulgated by the President in the Forty-eighth Year of the Republic of India.

An Ordinance to regulate the lotteries and to provide for matters connected therewith and incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution the President is pleased to promulgate the following Ordinance;

Short title
extent and
commen-
cement.

1. (1) This Ordinance may be called the Lotteries (Regulation) Ordinance, 1997.
- (2) It shall extend to the whole of India.
- (3) It shall come into force on the 2nd day of October, 1997.

2. In the Ordinance, unless there is anything repugnant in the subject or context.—

(a) "lottery" means a scheme, in whatever form and by whatever name called, for distribution of prizes by lot or chance to those persons participating in the chances of a prize by purchasing tickets ;

(b) "prescribed" means prescribed by rules made under this Ordinance.

Prohibi-
tion of
lotteries.

3. Save as otherwise provided in section 4, no State Government shall organise, conduct or promote any lottery.

Condi-
tions
subject
to which
lotteries
may be
organised
etc.

4. A State Government may organise, conduct or promote a lottery subject to the following conditions, namely :—

(a) prizes shall not be offered on any preannounced number or on the basis of a single digit ;

(b) the State Government shall print the lottery tickets bearing the imprint and logo of the State in such manner that the authenticity of the lottery ticket is ensured ;

(c) the State Government shall sell the tickets either itself or through distributors or selling agents ;

(d) the State Government itself shall conduct the draws of all the lotteries ;

(e) the prize money unclaimed within, such time as may be prescribed by the State Government or not otherwise distributed, shall become the property of that Government ;

(f) the place of draw shall be located within the State concerned.

(g) no lottery shall have more than one draw in a week ;

(h) the draws of all kinds of lotteries shall be conducted between such period of the day as may be prescribed by the State Government.

(i) the number of bumper draws of a lottery shall not be more than six in a calendar year ;

(j) such other conditions as may be prescribed by the Central Government,

Prohibi-
tion of
sale of
ticket in
a State.

5. A State Government may within the State, prohibit the sale of tickets of a lottery organised, conducted or promoted by another State.

Prohibi-
tion of
organi-
sation
etc. of
lottery.

6. The Central Government may, by order published in the Official Gazette, prohibit a lottery organised, conducted or promoted in contravention of the provisions of section 4 or where tickets of such lottery are sold in contravention of the provisions of section 5.

7. If any person acts as an agent, a promoter or trader in any lottery organised, conducted or promoted in contravention of the provisions of this Ordinance or sells, distributes or purchases the ticket of such lottery, he shall be punishable with rigorous imprisonment for a term which may extend to two years or with fine or with both. Penalty.

8. The offence under this Ordinance shall be cognizable and non-bailable.

Offences
to be
cogni-
zable
and
nonbaila-
ble.

9.(1) Where an offence under this Ordinance has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Offences
by com-
panies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of Individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

10. The Central Government may give directions to the State Government as to carrying into execution in the State of any of the provisions of this Ordinance or of any rule or order made there under.

Power to
give
directions.

11. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

Power of
Central
Govern-
ment to
make
rules.

(2) Every notification issued by the Central Government and every rule made by it, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or rule, or both Houses agree that the notification or rule should not be made, the notification or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

12. (1) The State Government may, by notification in the Official Gazette, make rules, to carry out the provisions of this Ordinance.

Power
of State
Govern-
ment to
make
rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) time to be fixed for claiming prize money under clause (e) of sub-section (2) of section 4;

(b) period to be fixed for draws of all lotteries under clause (h) of sub-section (2) of section 4; and

(c) any other matter which is required to be, or may be, prescribed:

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Sd/--
President

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 8th December, 1997.

No. RP-84-Ord. 21-97-66/E.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra -ordinary, Part II, Section 1, dated the 3rd October, 1997 is republished for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 3rd October, 1997/Asvina 11, 1919 (Saka)

THE ESSENTIAL COMMODITIES (SPECIAL PROVISIONS)
ORDINANCE, 1997

No. 21 OF 1997

Promulgated by the President in the Forty-eighth Year of the
Republic of India.

An Ordinance to make certain special provisions by way of amendments to the Essential Commodities Act, 1955, for a temporary period for dealing more effectively with persons indulging in hoarding and blackmarketing of, and profiteering in, essential commodities and for matters connected therewith or incidental thereto.

WHEREAS for ensuring the availability of essential commodities at fair prices, it is necessary to curb the hoarding and backmarketing of, and profiteering in, such commodities;

AND WHEREAS for dealing more effectively with persons indulging in such anti-social activities, it is necessary to make certain special provisions by way of amendments to the Essential Commodities Act, 1955, for a temporary period;

10 of 1955.

AND WHEREAS a Bill further to amend the Essential Commodities (Special Provisions) Act, 1981 and to make special provisions by way of amendment to the Essential Commodities Act, 1955 to achieve the above objects was introduced in Parliament but has not yet been passed;

18 of 1981.

10 of 1955.

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and
commence-
ment.

1. (1) This Ordinance may be called the Essential Commodities (Special Provisions) Ordinance, 1997.

(2) It shall come into force at once except in the States of Arunachal Pradesh, Mizoram and the Union territories of Andaman and Nicobar Islands, Dadra and Nagar Haveli and Lakshadweep; and in these States and Union territories on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States and Union territories, and any reference to the commencement of this Ordinance or any provision thereof shall be construed in relation to each State and Union territory, as a reference, to the coming into force of this Ordinance in that State or Union territory.

Act 10 of 1955
to have effect
subject to
certain special
provisions for
a temporary
period.

2. During the period of operation of this Ordinance, the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act) shall have effect subject to the amendments specified in sections 3 to 11:

Provided that the amendments specified in sections 5 to 10 shall not apply to, or in relation to, any offence under the principal Act committed before the commencement of this Ordinance and the provisions of the principal Act shall apply to, and in relation to, such offences as if those amendments had not been made.

Amendment of
section 2.

3. In section 2 of the principal Act,—

(a) clause (ia) shall be re-numbered as clause (iia), and before clause (iia) as so re-numbered, the following clause shall be inserted, namely:—

“(ia) “Code” means the Code of Criminal Procedure, 1973;” and

2 of 1974.

(b) after clause (e), the following clause shall be inserted, namely:—

“(f) words and expressions used but not defined in this Act and defined in the Code shall have the meanings respectively assigned to them in that Code.”

Amendment of
section 6A.

4. In section 6A of the principal Act, for the proviso to sub-section (2), the following proviso shall be substituted, namely:—

“Provided that in the case of any such essential commodity the retail sale price whereof has been fixed by the Central Government or a State Government under this Act or under any other law for the time being in force, the Collector may, for its equitable distribution and availability at fair prices, order the same to be sold through fair price shops at the price so fixed.”

Amendment of
section 7.

5. In section 7 of the principal Act,—

(a) in sub-section (1), the proviso to sub-clause (ii) of clause (a) shall be omitted;

(b) the proviso to sub-section (2) shall be omitted;

(c) the proviso to sub-section (2A) shall be omitted;

(d) sub-section (2B) shall be omitted.

6. To section 8 of the principal Act, the following proviso shall be added, namely:—

Amendment of
section 8.

"Provided that where a person has abetted the contravention of any order for the purpose of procuring any essential commodity of the nature mentioned in sub-clause (iva) of sub-clause (v) of clause (a) of section 2 for his own use or for the use of any member of his family or for the use of any person dependent on him, and not for the purpose of carrying on any business or trade in such essential commodity, the court may, notwithstanding anything contained in section 7 and for reasons to be mentioned in the judgment, impose a sentence of fine only."

7. For section 10A of the principal Act, the following section shall be substituted, namely:—

Amendment of
section 10A.

2 of 1974.

"10A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under—

Provision as to
cognizance and
bail.

(a) this Act shall be cognizable;

(b) this Act except the offence punishable under sub-clause (i) of clause (a) of sub-section (1) of section 7 shall be non-bailable;

(c) sub-clause (i) of clause (a) of sub-section (1) of section 7, if committed more than once shall be non-bailable."

8. After section 10A of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
10AA.
Power to arrest.

2 of 1974.

"10AA. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no officer below the rank of an officer-in-charge of a police station or any police officer authorised by him in this behalf in writing, shall arrest any person accused of committing an offence punishable under this Act."

9. Section 12 of the principal Act shall be omitted.

Omission of
section 12.

10. For section 12A of the principal Act, the following sections shall be substituted, namely:—

Substitution of
new section for
section 12A.

"12A. (1) The State Government may, for the purpose of providing speedy trial of the offences under this Act, by notification in the Official Gazette, constitute as many Special Courts as may be necessary for such area or areas as may be specified in the notification.

Constitution of
Special Court.

(2) A Special Court shall consist of a single judge who shall be appointed by the High Court upon a request made by the State Government.

Explanation.—In this sub-section, the word "appoint" shall have the meaning given to it in the *Explanation* to section 9 of the Code.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless—

(a) he is qualified for appointment as a judge of High Court, or

(b) he has, for a period of not less than one year, been a Sessions Judge or an Additional Sessions Judge.

12AA. (1) Notwithstanding anything contained in the Code,—

Offences triable
by Special
Courts.

(a) all offences under this Act shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court;

(b) where a person accused of or suspected of the commission of an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section (2A) of section 167 of the Code, such Magistrate may authorise the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate:

Provided that where such Magistrate considers—

(i) when such person is forwarded to him as aforesaid; or

(ii) upon or at any time before the expiry of the period of detention authorised by him;

that the detention of such person is unnecessary, he may, if he is satisfied that the case falls under the proviso to section 8, order the release of such person on bail and if he is not so satisfied, he shall order such person to be forwarded to the Special Court having jurisdiction;

(c) the Special Court may, subject to the provisions of clause (d) of this sub-section, exercise, in relation to the person forwarded to it under clause (b), the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code in relation to an accused person in such case who has been forwarded to him under that section;

(d) save as aforesaid no person accused of or suspected of the commission of an offence under this Act shall be released on bail by any court other than a Special Court or the High Court;

(e) a Special Court may, upon a perusal of police report of the facts constituting an offence under this Act take cognizance of that offence without the accused being committed to it for trial;

(f) all offences under this Act shall be tried in a summary way and the provisions of sections 262 to 265 (both inclusive) of the Code shall, as far as may be, apply to such trial :

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Special Court to pass a sentence of imprisonment for a term not exceeding two years.

(2) When trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act, with which the accused may, under the Code, be charged at the same trial :

Provided that such other offence is, under any other law for the time being in force, triable in a summary way :

Provided further that in the case of any conviction for such other offence in such trial, it shall not be lawful for the Special Court to pass a sentence of imprisonment for a term exceeding the term provided for conviction in a summary trial under such other law:

(3) A Special Court may, with a view to obtaining the evidence of any person suspected to have been directly or indirectly concerned in, or privy to, an offence under this Act, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof and any pardon so tendered shall, for the purposes of section 308 of the Code, be deemed to have been tendered under section 307 thereof.

(4) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code and the High Court may

exercise such powers including the power under clause (b) of sub-section (1) of that section as if the reference to "Magistrate" in that section included also a reference to a "Special Court" constituted under section 12A.

12AB. The High Court may exercise, so far as may be applicable; all the powers conferred by Chapters XXIX and XXX of the Code on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Sessions trying cases within the local limits of the jurisdiction of the High Court.

Appeal and revision.

12AC. Save as otherwise provided in this Act, the provisions of the Code (including the provisions as to bail and bonds) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Sessions and the person conducting a prosecution before a Special Court, shall be deemed to be a Public Prosecutor.

Application of Code to proceedings before a Special Court.

11. After section 51A of the principal Act, the following section shall be inserted namely:—

Insertion of new section 15AA.

"15AA. Notwithstanding anything contained in any other law, any prosecution in respect of any offence under the principal Act, committed during the period commencing on the 1st day of September, 1997, and ending with the date of commencement of this Ordinance, shall be instituted only in the Special Court and any prosecution in respect of such offence pending in any court shall stand transferred to the Special Court."

Transfer of cases.

Sd/-

K. R. NARAYANAN,
President.

Sd/-

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.

VI-Ex.23-2

GOVERNMENT CENTRAL PRESS, GANDHINAGAR,



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 8th December, 1997.

No. RP-85-Act-28-97-E-65/E.—The following Act of Parliament is
republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 28th May, 1997/Jyaistha 7, 1919 (Saka)

The following Act of Parliament received the assent of the President on
the 28th May, 1997, and is hereby published for general information :—

THE RICE-MILLING INDUSTRY (REGULATION) REPEAL ACT, 1997

No. 28 OF 1997

[28th May, 1997.]

An Act to repeal the Rice-Milling Industry (Regulation) Act, 1958.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Rice-Milling Industry (Regulation) Repeal Act, 1997.

Repeal of
Act 21 of
1958.

2. The Rice-Milling Industry (Regulation) Act, 1958 is hereby repealed.

Sd/-

RAGHBIR SINGH,
Additional Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



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PART—VI

Acts of Parliament and Ordinances promulgated by the President.
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 8th December, 1997.

No. RP-92-Ord. 22-97-67/E.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part II, Section 1, dated the 29th October, 1997 is republished for general information :—

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 29th October, 1997/Kartika 7, 1919 (Saka)

THE PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA) AMENDMENT ORDINANCE, 1997

No. 22 OF 1997

Promulgated by the President in the Forty-eighth Year of the Republic of India.

An Ordinance to amend the Prasara Bharati (Broadcasting Corporation of India) Act, 1990.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Prasara Bharati (Broadcasting Corporation of India) Amendment Ordinance, 1997.

Short title
and com-
mencement.

(2) It shall come into force at once.

Substitution
of new
section for
section 2.

2. For section 2 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 25 of 1990.
(hereinafter referred to as the principal Act), the following section shall be substituted,
namely:—

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "Akashvani" means the offices, stations and other establishments, by whatever name called, which, immediately before the appointed day, formed part of or were under the Director-General, All India Radio of the Union Ministry of Information and Broadcasting;
- (b) "appointed day" means the date appointed under section 3;
- (c) "Board" means the Prasar Bharati Board;
- (d) "broadcasting" means broadcasting by the Prasar Bharati;
- (e) "Chairman" means the Chairman of the Corporation appointed under section 4;
- (f) "Corporation" means the Prasar Bharati (Broadcasting Corporation of India) established under section 3;
- (g) "Doordarshan" means the offices, kendras and other establishments, by whatever name called, which, immediately before the appointed day, formed part of or were under the Directorate-General, Doordarshan of the Union Ministry of Information and Broadcasting;
- (h) "elected Member" means a Member elected under section 3;
- (i) "Executive Member" means the Executive Member appointed under section 4;
- (j) "kendra" means any telecasting centre with studios or transmitters or both and includes a relay station;
- (k) "Member" means a Member of the Board;
- (l) "Nominated Member" means the Member nominated by the Union Ministry of Information and Broadcasting under section 3;
- (m) "Non-lapsable Fund" means the Fund created from the commercial revenues of Akashvani and Doordarshan to meet expenditure on certain schemes;
- (n) "notification" means a notification published in the Official Gazette;
- (o) "Part-time Member" means a Part-time Member of the Board appointed under section 4, but does not include an *ex officio* Member, the Nominated Member or an elected Member;
- (p) "prescribed" means prescribed by rules made under this Act;
- (q) "Recruitment Board" means a board established under sub-section (1) of section 10;
- (r) "regulations" means regulations made by the Corporation under this Act;
- (s) "station" means any broadcasting station with studios or transmitters or both and includes a relay station;

(t) "year" means the financial year.

3. In section 3 of the principal Act,—

Amendment
of section
3.

(a) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) The Board shall consist of—

(a) a Chairman;

(b) One Executive Member;

(c) six Part-time Members;

(d) Executive Director (Finance), *ex officio*;

(e) Executive Director (Personnel), *ex officio*;

(f) Director-General (Akashvani), *ex officio*;

(g) Director-General (Doordarshan), *ex officio*;

(h) One representative of the Union Ministry of Information and Broadcasting, to be nominated by that Ministry; and

(i) two representatives of the employees of the Corporation, of whom one shall be elected by the engineering staff from amongst themselves and one shall be elected by the other employees from amongst themselves."

(b) in sub-section (6), the proviso shall be omitted.

4. In section 4 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

Amendment
of section
4.

"(3) The Chairman and the Part-time Members shall be persons of eminence in public life; the Executive Member shall be a person having special knowledge or practical experience in respect of such matters as administration, management, broadcasting, education, literature, culture, arts, music, dramatics or journalism."

5. For section 6 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 6.

"6.(1) The Chairman shall be Part-time Member and shall hold office for a term of six years from the date on which he enters upon his office.

Term of
office,
conditions
of service,
etc., of
Chairman
and other
Members.

(2) The Executive Member, shall be a Whole-time Member and shall hold office for a term of six years from the date on which he enters upon his office.

(3) The term of office of Part-time Members shall be six years.

(4) The term of office of an elected Member shall be six years or till he ceases to be an employee of the Corporation, whichever is earlier.

(5) The Executive Member shall be an employee of the Corporation and as such shall be entitled to such salaries and allowances and shall be subject to such

conditions of service in respect of leave, pension (if any), provident fund and other matters as may be prescribed.

(6) The Chairman shall be entitled to such allowances, honorarium and other facilities as may be prescribed.

(7) Part-time Members shall be entitled to such allowances as may be prescribed.

(8) The Chairman, the Executive Member and other Members except *ex officio* Members shall not be eligible for re-appointment.

(9) No person having any commercial interest, direct or indirect, in any broadcasting, advertising or programme producing agency shall be eligible for appointment as a Chairman, Executive Member or Part-time Member."

Amendment
of section
7.

6. In section 7 of the principal Act,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Notwithstanding anything contained in sub-section (1), the President may, by order, remove the Chairman, Executive Member or any Part-time Member from his office if such Chairman, Executive Member or such Part-time Member—

(a) ceases to be a citizen of India; or

(b) is adjudged an insolvent; or

(c) is convicted of any offence involving moral turpitude; or

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of body or mind.

Provided that the President may, by order, remove the Chairman from his office if he engages during his term of office in any paid employment outside the duties of his office."

(b) in sub-section (4), for the words "any Whole-time Member, except any *ex officio* Member, the Nominated Member or any elected Member," the words "the Executive Member" shall be substituted.

Amendment
of section
9.

7. In section 9 of the principal Act, in sub-section (1), after the words and brackets "the Director-General (Doordarshan)", the words and brackets ", the Executive Director (Finance), the Executive Director (Personnel)" shall be inserted.

Amendment
of section
10.

8. In section 10 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Corporation shall, as soon as may be, after the appointed day and in such manner and subject to such conditions and restrictions as may be prescribed, establish for the purposes of section 9, one or more Recruitment Boards:

Provided that the Union Public Service Commission shall continue to discharge its functions relating to recruitment of officers and employees of the Corporation which was being discharged immediately before the appointed day till the recruitment Board is constituted for such categories of officers and employees of the Corporation."

9. In section 11 of the principal Act,—

Amendment
of section
11.

(a) for sub-section (2) the following sub-section shall be substituted, namely:—

"(2) the provisions of sub-section (1) shall not apply to any of the officers or employees not borne on the cadres of Akashvani and Doordarshan:

Provided that officers from the Indian Information Service, Central Secretariat Service, Central Secretariat Stenographers' Service, Central Secretariat Clerical Service borne on the cadre of the Ministry of Information and Broadcasting, equal in number of their cadre posts borne on the strength of Akashvani and Doordarshan immediately before the appointed day may be absorbed by the Corporation after following such procedure as may be prescribed:

Provided further that the members of Indian Information Service and other services working in Akashvani and Doordarshan immediately before the appointed day and not borne on the cadres of Akashvani and Doordarshan shall be deemed to be on deputation on such terms and conditions and till such time as may be finalised by the Corporation in consultation with the respective cadre controlling authorities.

(b) in sub-section (5), the third proviso shall be omitted.

10. In section 12 of the principal Act,—

Amendment
of section
12.

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Subject to the provisions of this Act, it shall be the primary duty of the Corporation to organise and conduct public service broadcasting to inform, educate and entertain the public;"

(ii) in sub-section (2), in clause (n), for the words "broadcast frequencies available", the words "broadcasting frequencies made available for public service broadcasting" shall be substituted;

(iii) in sub-section (3), in clause (c), the words "and to establish procedures for the allocation of such programmes, rights or privileges to the services," shall be omitted;

(iv) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) In order to achieve its objectives the Corporation may formulate its own programme and advertisement codes, fix such limits on broadcasting of advertisements as considered necessary to ensure that adequate time is made available for the promotion of the objectives of the Prasar Bharati. ...

Explanation.—For the removal of doubts it is hereby declared that the programme and advertisement codes or limits on broadcasting of advertisement shall be in addition to and not in derogation of any programme and advertisement codes or limits on broadcasting of advertisements specified by or under any other law for the time being in force."

(v) in sub-section (7),—

(a) the word "service" shall be omitted;

(b) the proviso shall be omitted.

Omission
of sections
13 to 15.

11. Sections 13 to 15 of the principal Act shall be omitted.

Amendment
of section
16.

12. In section 16 of the principal Act, for clause (a), the following clause shall be substituted, namely:—

"(a) all property and assets which immediately before that day vested in the Central Government for the purpose of Akashvani or Doordarshan or both shall stand transferred to the Corporation on perpetual lease on payment of a nominal fee of rupees. one per annum.

(aa) the Non-lapsable Fund which immediately before that day vested in the Central Government for the purpose of Akashvani or Doordarshan or both shall stand transferred to the Corporation.

Substitution
of new
section for
section
25.

13. For section 25 of the principal Act, the following section shall be substituted, namely:—

Report to
Parliament
in certain
matters and
recommen-
dations as
to action
against the
Board.

"25. (1) Where the Board persistently makes default in complying with any directions issued under section 23 or fails to supply the information required under section 24, the Central Government shall give a reasonable opportunity to the Board to show cause as to why it should not be superseded and shall consider the objections, if any, of the Board.

(2) The Central Government after considering the objections if any of the Board, may propose to supersede the Board and if it so proposes, shall prepare a report and lay it before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions.

(3) If, before the expiry of the session immediately following the session or the successive session referred in subsection (2), both Houses agree to supersede the Board the President may by notification supersede the Board for such period not exceeding six months, as may be specified in the notification.

(4) Upon the publication of the notification under sub-section (3),—

(a) all the Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted under this Act, be exercised and discharged by such person or persons as the President may direct.

(5) On the expiration of the period of supersession specified in the notification issued under sub-section (3), the President may reconstitute the Board by fresh appointments, and in such a case any person who had vacated his office under clause (a) of sub-section (4) shall not be disqualified for appointment:

Provided that the President may, at any time before the expiration of the period of supersession, take action under this sub-section.

(6) The Central Government shall cause the notification issued under sub-section (3) and a full report of the action taken under this section to be laid before each House of Parliament."

14. Section 26 of the principal Act shall be omitted.

Omission of section 26.

15. For sections 27 and 28 of the principal Act, the following sections shall be substituted namely:—

Substitution of new sections for sections 27 and 28.

45 of 1860.

"27. The Chairman and every other Member, every officer or other employee of the Corporation and every member of a committee thereof, and every member of a Recruitment Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

Chairman, Members, etc., to be public servants.

28. No suit or other legal proceeding shall lie against the corporation, the Chairperson or any member or officer or other employee thereof or a member of a Recruitment Board for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or regulations made thereunder."

Protection of action taken in good faith.

16. For section 31 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 31.

"31. The Corporation shall prepare once in every year, in such form and within such time as may be prescribed, an annual report giving a full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before each House of Parliament."

Annual report.

17. In section 32 of the principal Act, in sub-section (2),—

Amendment of section 32.

(i) in clause (a) for the words, brackets and figures "Whole-time Members under sub-section (7) of section 6", the words, brackets and figures "Executive Member under sub-section (5) of section 6" shall be substituted;

(ii) for clause (b), the following clauses shall be substituted, namely:—

"(b) the allowances payable to and facilities admissible to the chairman under sub-section (6) of section 6;

(ba) the allowances payable to the Part-time Members under sub-section (7) of section 6;"

(iii) for clause (f), the following clause shall be substituted, namely:—

"(f) the procedure for absorption of officers under sub-section (2) of section 11;"

25-8

(iv) clauses (g) and (h) shall be omitted;

(v) clauses (i), (j), (k) and (l) shall be re-lettered as clauses (g), (h), (i) and (j);

(vi) for the clause (i) so relettered, the following clause shall be substituted, namely:—

"(i) the form in which, and the time within which, the Corporation shall prepare their annual report under section 31."

Amendment
of section
33.

18. In section 33 of the principal Act, in sub-section (2), clause (h) shall be omitted and clause (i) shall be relettered as clause (h).

Sd/-
K. R. NARAYANAN,
President.

Sd/-
T. K. VISWANATHAN,
Joint Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XXXVIII] THURSDAY, DECEMBER 11, 1997/AGRAHAYANA 20, 1919.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 11th December, 1997.

No. RP-71-Act. 6 of -97-97/E -70E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19th March, 1997/Falgun 28, 1918 (Saka)

The following Act of Parliament received the assent of the President on the 19th March, 1997 and is hereby published for general information :

THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO TRANSACTIONS IN SECURITIES) AMENDMENT ACT, 1997.

AN ACT

(Act No. 6 of 1997) (19th March, 1997)
further to amend the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Act, 1997.

Short title and
commencement.

(2) It shall be deemed to have come into force on the 16th day of January, 1997.

27 of 1992. 2. In section 5 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 (hereinafter referred to as the principal Act),—

Amendment
of section 5.

(a) in sub-section (2), for the words "a sitting Judge", the words "one or more sitting Judges" shall be substituted;

(b) in sub-section (3), for the words "the Judge of the Special Court", at both the places where they occur, the words "a Judge of the Special Court" shall be substituted.

Insertion of
new section
5A.

Distribution of
cases amongst
Judges of
Special Court.

Repeal and
saving.

3. After section 5 of the principal Act, the following section shall be inserted, namely:—

“5A. Where the Special Court consists of two or more Judges, the Chief Justice of the High Court within the local limits of whose jurisdiction the Special Court is situated may, from time to time, by general or special order, make provisions as to the distribution of cases amongst the Judges and specify the matters which may be dealt with by each of such Judge.”

4. (1) The Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance, 1997 is hereby repealed.

Ord. 6 of 1997.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Sd/-

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette

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GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 11th December, 1997.

No. RP-50-Act 24 of 96/97/E/69E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 19th August, 1996/Shravan 28, 1918 (Saka)

The following Act of Parliament received the assent of the President on the 16th August, 1996 and is hereby published for general information :

THE INDUSTRIAL DISPUTES (AMENDMENT) ACT, 1996.

AN ACT

(Act No. 24 of 1996)

(16th August, 1996)

further to amend the Industrial Disputes Act, 1947.

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Industrial Disputes (Amendment) Act, 1996.

Short title and
commencement.

(2) It shall be deemed to have come into force on the 11th day of October, 1995.

2. In section 2 of the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), in clause (a), in sub-clause (i),—

Amendment of
Act 14 of 1947.

(i) for the words and figures "the Industrial Finance Corporation of India established under section 3 of the Industrial Finance Corporation Act, 1948", the words and figures "the Industrial Finance Corporation of India Limited formed and registered under the Companies Act, 1956" shall be substituted;

(ii) the words and figures 'or the "Indian Airlines" and "Air India" Corporations established under section 3 of the Air Corporations Act, 1953' shall be omitted;

(iii) for the words and figures "the Oil and Natural Gas Commission established under section 3 of the Oil and Natural Gas Commission Act, 1959", the words and

15 of 1948.

1 of 1956.

27 of 1953.

43 of 1959.

figures "the Oil and Natural Gas Corporation Limited registered under the Companies Act, 1956" shall be substituted;

1 of 1956.

(iv) for the words and figures "the International Airports Authority of India constituted under section 3 of the International Airports Authority Act, 1971", the words and figures "the Airports Authority of India constituted under section 3 of the Airports Authority of India Act, 1994" shall be substituted;

43 of 1971.

55 of 1994.

(v) for the words "a banking or an insurance company", the words "an air transport service, or a banking or an insurance company" shall be substituted.

Repeal and
saving.

3. (1) The Industrial Disputes (Amendment) Third Ordinance, 1996 is hereby repealed.

Ord. 23 of
1996.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Sd/-

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 11th December, 1997.

No. RP-49-Act 25 of 96/97/E/71E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 19th August, 1996/Shravan 28, 1918 (Saka)

The following Act of Parliament received the assent of the President on the 16th August, 1996 and is hereby published for general information :

THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS (AMENDMENT) ACT, 1996.

AN ACT

(Act No. 25 of 1996)

(16th August, 1996)

Further to amend the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Act, 1996.

Short title and commencement.

(2) It shall be deemed to have come into force on the 16th day of November, 1995.

19 of 1952.

2. In the long title to the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the principal Act), for the words "family pension fund", the words "pension fund" shall be substituted.

Amendment of long title.

3. In section 2 of the principal Act,—

Amendment of section 2.

(a) clauses (gg) and (ggg) shall be omitted;

(b) after clause (k), the following clauses shall be inserted, namely:—

'(kA) "Pension Fund" means the Employees' Pension Fund established under sub-section (2) of section 6A;

'(kB) "Pension Scheme" means the Employees' Pension Scheme framed under sub-section (1) of section 6A;'

(c) after clause (I), the following clause shall be inserted, namely:—

'(II) "superannuation", in relation to an employee, who is the member of the Pension Scheme means the attainment, by the said employee, of the age of fifty- eight years;'

Substitution of the word "Pension" for the words "Family Pension".

4. In the principal Act, for the words "Family Pension", wherever they occur, the word "Pension" shall be substituted.

Substitution of a new section for sections 6A and 6B.

5. For sections 6A and 6B of the principal Act, the following section shall be substituted, namely:—

Employees' Pension Scheme.

"6A. (1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Pension Scheme for the purpose of providing for—

(a) superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Act applies; and

(b) widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees.

(2) Notwithstanding anything contained in section 6, there shall be established, as soon as may be after framing of the Pension Scheme, a Pension Fund into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme,—

(a) such sums from the employer's contribution under section 6, not exceeding eight and one-third per cent. of the basic wages, dearness allowance and retaining allowance, if any, of the concerned employees, as may be specified in the Pension Scheme;

(b) such sums as are payable by the employers of exempted establishments under sub-section (6) of section 17;

(c) the net assets of the Employees' Family Pension Fund as on the date of the establishment of the Pension Fund;

(d) such sums as the Central Government may, after due appropriation by Parliament by law in this behalf, specify.

(3) On the establishment of the Pension Fund, the Family Pension Scheme (hereinafter referred to as the ceased scheme) shall cease to operate and all assets of the ceased scheme shall vest in and shall stand transferred to, and all liabilities under the ceased scheme shall be enforceable against, the Pension Fund and the beneficiaries under the ceased scheme shall be entitled to draw the benefits, not less than the benefits they were entitled to under the ceased scheme, from the Pension Fund.

(4) The Pension Fund shall vest in and be administered by the Central Board in such manner as may be specified in the Pension Scheme.

(5) Subject to the provisions of this Act, the Pension Scheme may provide for all or any of the matters specified in Schedule III.

(6) The Pension Scheme may provide that all or any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in that behalf in that scheme.

(7) A Pension Scheme, framed under sub-section (1), shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two of

more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme or both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; ^{5b}, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme."

6. In section 6C of the principal Act,—

(a) sub-section (3) shall be omitted;

(b) clause (b) of sub-section (4) shall be omitted.

Amendment of
section 6C.

7. In section 17 of the principal Act,—

(a) for sub-section (1C), the following sub-section shall be substituted, namely:—

"(1C) The appropriate Government may, by notification in the Official Gazette, and subject to the condition on the pattern of investment of pension fund and such other conditions as may be specified therein, exempt any establishment or class of establishments from the operation of the Pension Scheme if the employees of such establishment or class of establishments are either members of any other pension scheme or propose to be members of such pension scheme, where the pensionary benefits are at par or more favourable than the Pension Scheme under this Act.";

(b) in sub-section (6), the words "as well as the employees' contribution" shall be omitted.

Amendment of
section 17.

8. For Schedule III to the principal Act, the following Schedule shall be substituted, namely:—

Substitution of
new Schedule
for Schedule
III.

"SCHEDULE III

[See section 6A (5)]

MATTERS FOR WHICH PROVISION MAY BE MADE IN THE PENSION SCHEME

1. The employees or class of employees to whom the Pension Scheme shall apply.

2. The time within which the employees who are not members of the Family Pension Scheme under section 6A as it stood before the commencement of the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Act, 1996 (hereafter in this Schedule referred to as the amending Act) shall opt for the Pension Scheme.

3. The portion of employers' contribution to the Provident Fund which shall be credited to the Pension Fund and the manner in which it is credited.

4. The minimum qualifying service for being eligible for pension and the manner in which the employees may be granted the benefits of their past service under section 6A as it stood before the commencement of the amending Act.

5. The regulation of the manner in which and the period of service for which no contribution is received.

6. The manner in which employees' interest will be protected against default in payment of contribution by the employer.

7. The manner in which the accounts of the Pension Fund shall be kept and investment of moneys belonging to Pension Fund to be made subject to such pattern of investment as may be determined by the Central Government.

8. The form in which an employee shall furnish particulars about himself and the members of his family whenever required.

9. The forms, registers and records to be maintained in respect of employees, required for the administration of the Pension Scheme.

10. The scale of pension and pensionary benefits and the conditions relating to grant of such benefits to the employees.

11. The manner in which the exempted establishments have to pay contribution towards the Pension Scheme and the submission of returns relating thereto.

12. The mode of disbursement of pension and arrangements to be entered into with such disbursing agencies as may be specified for the purpose.

13. The manner in which the expenses for administering the Pension Scheme will be met from the income of the Pension Fund.

14. Any other matter which is to be provided for in the Pension Scheme or which may be necessary or proper for the purpose of implementation of the Pension Scheme."

Repeal and
saving.

9. (1) The Employees' Provident Funds and Miscellaneous Provisions (Amendment) Third Ordinance, 1996, is hereby repealed.

Ord. 24 of
1996.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

Sd/-

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.



The Gujarat Government Gazette

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 12th December, 1997.

No. RP-76/Act 16/97/E.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 25th March, 1997/Chaitra 4, 1919 (Saka)

The following Act of Parliament received the assent of the President on the 25th March, 1997 and is hereby published for general information :

THE NATIONAL HIGHWAYS LAWS (AMENDMENT) ACT, 1997
AN ACT

(Act No. 16 of 1997)

(25th March, 1997)

further to amend the National Highways Act, 1956 and the National Highways
Authority of India Act, 1988.

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Highways Laws (Amendment) Act, 1997.
- (2) It shall be deemed to have come into force on the 24th day of January, 1997.

Short title and
commence-
ment.

CHAPTER II

AMENDMENT OF THE NATIONAL HIGHWAYS ACT, 1956

48 of 1956.

2. In section 2 of the National Highways Act, 1956 (hereinafter referred to as the National Highways Act), in sub-section (1), the words "except such parts thereof as are situated within any municipal area" shall be omitted.

Amendment of
section 2.

Substitution of
new sections for
section 3.

3. For section 3 of the National Highways Act, the following sections shall be substituted, namely:—

Definitions.

'3. In this Act, unless the context otherwise requires,—

(a) "competent authority" means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority for such area as may be specified in the notification;

(b) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth.

Power to acquire
land, etc.

3A. (1) Where the Central Government is satisfied that for a public purpose any land is required for the building, maintenance, management or operation of a national highway or part thereof, it may, by notification in the Official Gazette, declare its intention to acquire such land.

(2) Every notification under sub-section (1) shall give a brief description of the land.

(3) The competent authority shall cause the substance of the notification to be published in two local newspapers, one of which will be in a vernacular language.

Power to enter
for survey, etc.

3B. On the issue of a notification under sub-section (1) of section 3A, it shall be lawful for any person, authorised by the Central Government in this behalf, to—

(a) make any inspection, survey, measurement, valuation or enquiry;

(b) take levels;

(c) dig or bore into sub-soil;

(d) set out boundaries and intended lines of work;

(e) mark such levels, boundaries and lines by placing marks and cutting trenches; or

(f) do such other acts or things as may be laid down by rules made in this behalf by that Government.

Hearing of
objections.

3C. (1) Any person interested in the land may, within twenty-one days from the date of publication of the notification under sub-section (1) of section 3A, object to the use of the land for the purpose or purposes mentioned in that sub-section.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the competent authority thinks necessary, by order, either allow or disallow the objections.

Explanation.—For the purposes of this sub-section, "legal practitioner" has the same meaning as in clause (i) of sub-section (1) of section 2 of the Advocates Act, 1961.

25 of 1961.

(3) Any order made by the competent authority under sub-section (2) shall be final.

Declaration of
acquisition.

3D. (1) Where no objection under sub-section (1) of section 3C has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objection under sub-section (2) of that section, the competent authority shall, as soon as may be, submit a report accordingly to the Central Government and on receipt of such report, the Central Government shall declare, by notification in the Official Gazette, that the land should be acquired for the purpose or purposes mentioned in sub-section (1) of section 3A.

(2) On the publication of the declaration under sub-section (1), the land shall vest absolutely in the Central Government free from all encumbrances.

(3) Where in respect of any land, a notification has been published under sub-section (1) of section 3A for its acquisition but no declaration under sub-section (1) has been published within a period of one year from the date of publication of that notification, the said notification shall cease to have any effect.

Provided that in computing the said period of one year, the period or periods during which any action or proceedings to be taken in pursuance of the notification issued under sub-section (1) of section 3A is stayed by an order of a court shall be excluded.

(4) A declaration made by the Central Government under sub-section (1) shall not be called in question in any court or by any other authority.

3E. (1) Where any land has vested in the Central Government under sub-section (2) of section 3D, and the amount determined by the competent authority under section 3G with respect to such land has been deposited under sub-section (1) of section 3H, with the competent authority by the Central Government, the competent authority may by notice in writing direct the owner as well as any other person who may be in possession of such land to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within sixty days of the service of the notice.

Power to take possession.

(2) If any person refuses or fails to comply with any direction made under sub-section (1), the competent authority shall apply—

(a) in the case of any land situated in any area falling within the metropolitan area, to the Commissioner of Police;

(b) in case of any land situated in any area other than the area referred to in clause (a), to the Collector of a District;

and such Commissioner or Collector, as the case may be, shall enforce the surrender of the land, to the competent authority or to the person duly authorised by it.

3F. Where the land has vested in the Central Government under section 3D, it shall be lawful for any person authorised by the Central Government in this behalf, to enter and do other act necessary upon the land for carrying out the building, maintenance, management or operation of a national highway or a part thereof, or any other work connected therewith.

Right to enter into the land where land has vested in the Central Government.

3G. (1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

Determination of amount payable as compensation.

(2) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent. of the amount determined under sub-section (1), for that land.

(3) Before proceeding to determine the amount under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired.

(4) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 3C, before the competent authority, at a time and place and to state the nature of their respective interest in such land.

(5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.

(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 shall apply to every arbitration under this Act.

26 of 1996.

(7) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration—

(a) the market value of the land on the date of publication of the notification under section 3A;

(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

Deposit and
payment of
amount.

3H. (1) The amount determined under section 3G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

(5) Where the amount determined under section 3G by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine per cent. per annum on such excess amount from the date of taking possession under section 3D till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.

Competent
authority to
have certain
powers of
civil court.

3I. The competent authority shall have, for the purposes of this Act, all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing commission for examination of witnesses.

3J. Nothing in the Land Acquisition Act, 1894 shall apply to an acquisition under this Act.

Land Acquisition Act 1 of 1894 not to apply.

4. Section 8 of the National Highways Act shall be omitted.

Omission of section 8.

5. In section 9 of the National Highways Act, in sub-section (2), after clause (a), the following clause shall be inserted, namely:—

Amendment of section 9.

"(aa) the manner in which the amount shall be deposited with the competent authority under sub-sections (1) and (6) of section 3H;"

CHAPTER III

AMENDMENT OF THE NATIONAL HIGHWAYS AUTHORITY OF INDIA ACT, 1988

68 of 1988.

6. For section 13 of the National Highways Authority of India Act, 1988 (hereinafter referred to as the National Highways Authority Act), the following section shall be substituted, namely:—

Substitution of new section for section 13.

48 of 1956.

"13. Any land required by the Authority for discharging its functions under this Act shall be deemed to be land needed for a public purpose and such land may be acquired for the Authority under the provisions of the National Highways Act, 1956."

Compulsory acquisition of land for the Authority.

7. In section 16 of the National Highways Authority Act, in sub-section (2), for clause (h), the following clause shall be substituted, namely:—

Amendment of section 16.

"(h) engage, or entrust any of its functions to, any person on such terms and conditions as may be prescribed;"

8. For section 17 of the National Highways Authority Act, the following section shall be substituted, namely:—

Substitution of new section for section 17.

"17. The Central Government may, after due appropriation made by Parliament by law in this behalf,—

Additional capital and grants to the Authority by the Central Government.

(a) provide any capital that may be required by the Authority for the discharge of its functions under this Act or for any purpose connected therewith on such terms and conditions as that Government may determine;

(b) pay to the Authority, on such terms and conditions as the Central Government may determine, by way of loans or grants such sums of money as that Government may consider necessary for the efficient discharge by the Authority of its functions under this Act."

9. In section 34 of the National Highways Authority Act, in sub-section (2), after clause (d), the following clause shall be inserted, namely:—

Amendment of section 34.

"(dd) the terms and conditions subject to which the functions of the Authority may be entrusted to any person under clause (h) of sub-section (2) of section 16;"

Repeal and
saving.

10. (1) The National Highways Laws (Amendment) Ordinance, 1997 is hereby repealed. Ord. 9 of 1997.

(2) Notwithstanding the repeal of the National Highways Laws (Amendment) Ordinance, 1997, anything done or any action taken under the National Highways Act and the National Highways Authority Act as amended by the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act. Ord. 9 of 1997.

Sd/-

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Kum. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.